



International  
Labour  
Office

International  
Programme  
on the Elimination  
of Child Labour

# child labour

**MODERN POLICY AND LEGISLATIVE  
RESPONSES TO CHILD LABOUR**





Modern policy  
and legislative responses  
to child labour

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# **Modern policy and legislative responses to child labour**

International Labour Organization  
International Programme on the Elimination of Child Labour (IPEC)

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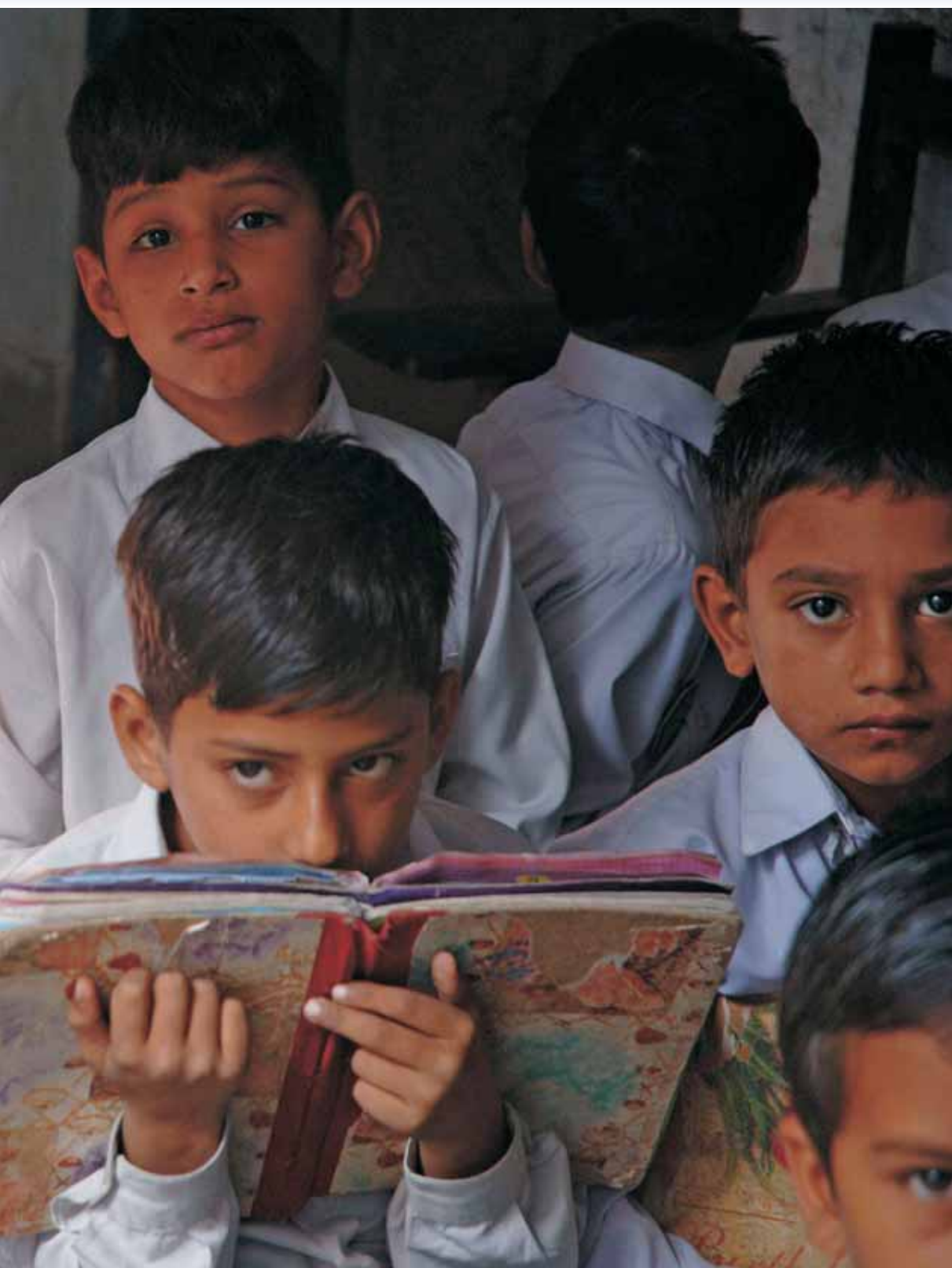


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# Introduction

## Response to children working





Around the world, as naturally as night becomes day, children are born. They eat and sleep. They play and learn. Sometimes they work. With time, they grow and develop into adults. How they do so and the contribution they can make to society depends largely on the type of childhood they have been allowed to lead, the education they have received and the skills they have acquired.

Attention to the phenomenon of children working has probably never been greater than it is today. Most people agree that some types of work done by children do not harm their life chances. Indeed, such work is seen as part of children's learning and socialization process. However, the general consensus is also that certain types of work are harmful to children, destroy their childhood and damage their future. Work of this kind – referred to in this publication as “child labour” – deprives children of their right to education, stunts their development and that of the countries in which they live and undermines their prospects of growing up in a healthful environment.

This Technical Guide looks at what is being done to combat the kind of child labour that needs to be eliminated. It is an examination of modern responses to the phenomenon of child labour as embodied in policy and legislation. It covers:

- where and how the lines have been drawn between the types and arrangements of work that have no harmful effect on children and those that do;
- how countries have expressed their antipathy to child labour and created institutions to combat it;
- how governments have responded to children not getting a proper education; and
- how governments have responded to adults' exploitation of child labour.

Examples of modern practice collected by the ILO, as well as drawn from other sources, are given throughout this Guide. The term “modern” is used with specific reference to the recent international consensus forged in response to child labour, with the adoption in 1999 of the ILO's Worst Forms of Child Labour Convention, No. 182.

The Guide is organized according to a number of phenomena giving rise to responses to, among other things:

- children doing work that is neither hazardous to them nor to their educational prospects;
- children doing hazardous work;
- children not going to school;
- children being used in commercial sexual exploitation;
- children being used in slavery-like practices;
- the inability of institutions to enforce laws prohibiting child labour.

The information is presented thus in an effort to make it both accessible and appealing to a wide audience. For people interested in the relationship between the documented responses and the relevant ILO Conventions and Recommendations on the Minimum Age for Admission to Employment and

on the Worst Forms of Child Labour, references are made throughout the text and laid out explicitly in two indexes at the end of the document.

The Guide looks at existing policy and legislative responses to the full spectrum of children's work, from that deemed permissible, to the very worst forms. For conceptual ease, the examination of responses begins with children's work generally, moves on to light work and work done in the context of education, and then turns to unacceptable work, including the worst forms of child labour.

The policy and legislation reviewed here is not exhaustive; examples of both widely used and innovative approaches are documented, while other similar approaches are not. *The inclusion of a certain policy or piece of legislation should not be construed as a statement of its success or impact; the Guide does not purport to show tested and measured "best" practices. Inclusion in the Guide means only that the policy or legislation exists, has been publicly announced and is intended as a response to the challenges posed by child labour.* When developing legislation or policies against child labour, reference should be made directly to Conventions Nos. 138 and 182, and technical advice if required can be requested from the ILO.

One last caveat: as a result of the separate analysis of the various national policies and legislative responses and their presentation in small, subject-related packages for the purposes of this document, it may be difficult to get a broad sense of the response to the problem of child labour in a particular country. Those who need a complete overview of what is being done at the country level would do best to consult a comprehensive study of that country's response to child labour.



1.

# Response to work by children





Policy and legislative responses to children working have traditionally depended on the type of work being done, relative to the child's age. This is because it is generally believed that certain types of work carried out even at a young age can contribute in a positive way to children's development and pose them no psychological or physical harm. Moreover, such work does not generally hinder their ability to meet their formal education obligations. At the opposite end of the spectrum is work that is so inherently harmful or hazardous to children that it should be subject to stricter regulation than work generally.

Thus, the fundamental – virtually universal – approach of States in formulating policy and legislative responses has been to categorize and define types of work and then place limitations on that work when it is being done by children. The first limitation is, of course, that persons below a set minimum age do not do the work. This method of *categorization*, requiring *definition*, leading to the setting of *limitations* follows the approach taken in international standards. However, some types of work done by children fall through the cracks, whether intentionally or not. Housework, for example, typically is not categorized, although a full day of household chores can just as well be an obstacle to education as a full day of factory work.

## Defining a “child”

[CRC, Art. 1]

Some countries make the definition of a *child* the departure point for their policy and legislative response to the issue of children working. This approach is similar to that of the UN Convention on the Rights of the Child (CRC), which defines a child as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”.

However, the CRC's broad definition of a child is of limited use when it comes to child labour, because virtually all countries have decided to set various limits to work by persons younger than 18 years. Thus, a single definition of a child as being someone younger than 18 years is not sufficient in the context of regulating children's work. In this case, other age-based cut-off points are needed. It does not matter whether persons under the age of 18 years are defined as children, as long as all such persons are covered by the measures of protection offered by the law. Coordination of definitions related to children in all policy areas is necessary to ensure clarity and consistency across the board.



## Coordinating the definition of a child in Iceland

In 1997, the Icelandic Legal Competence Act raised the age of legal majority from 16 years to 18 years. There were several reasons for the change:

- It was decided, on the recommendation of the Committee on the Rights of the Child in 1996, that the definition of a “child” should follow that of the CRC.
- Iceland’s previous arrangement was considered unnecessarily different from that of neighbouring countries.
- Social conditions had changed, as had young people’s educational needs.
- There was a discrepancy between the duties of parents as custodians and as support providers, the former ending when the child reached 16 years of age and the latter ending at 18 years of age.
- The requirement that child protection bodies could only provide services to a person of 16 years or older with that person’s consent made the necessary continuity in the delivery of support and protection difficult to achieve.

Following adoption of the new law, the Minister of Justice appointed a committee to examine what other laws needed amending to conform with the change in the age of majority. Amendments have since been made to the age limits provided for in various acts, such as the Marriage Act, the Personal Names Act and the Legal Domicile Act.

Amendments were also made to the Children’s and Young Persons’ Protection Act. The division by age into definitions of “children” (aged 0–16) and “young persons” (aged 16–18) was abolished. A child is now defined as an individual under the age of 18 years, and following the amendment, the Act now applies to all individuals under the age of 18.

Concerning work, the general rule in Iceland is that children under 15 years of age or in compulsory education may not be hired for work, except for the purpose of participation in cultural or artistic events, sporting or advertising activities or work that constitutes part of theoretical or practical studies. Children of 13 or 14 years may engage in light work such as light gardening, service jobs or other comparable jobs, but for a limited number of hours per week.

*Source: Iceland’s Third Periodic Report under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (October, 2001), UN Doc. E/1994/104/Add.25*

## 1.1 Response to children working

The first response to children working is to set down as a matter of policy a minimum age for entry to defined types of work. This usually takes the form of a law or regulation. Since there is universal agreement that different age limits should apply to different types of work, it is perhaps most interesting to look first at modern practice in categorizing and defining the types of work.

### Defining the scope of work

[C138, Art. 2(1)] International labour standards in defining the scope of work both influence and reflect practice. The ILO's Minimum Age Convention, 1973 (No. 138) requires that each ratifying state specify "a minimum age for admission to work or employment". This stipulation is meant to be broad and has been interpreted accordingly. This means that policies and laws in this area should have a broad protective approach, which does not insist on technicalities such as the existence of an employment relationship or the status of an employer when children are in fact doing work they should not be doing. Nevertheless, it is also often the case that responses to child labour are placed within general labour legislation, making legal interventions applicable only to persons defined as "employees" or persons in an "employment relationship". The alternative, required by Convention No. 138, is to make legal interventions applicable to *any work* done by persons below a specified age.

[GBR 1, § 30] In the United Kingdom, a person who assists in a trade or occupation carried on for profit is deemed to be employed, *whether or not he or she receives payment* for such work.

[MYS 1, § 1A(1)] Where a child is involved, "employ" and "employment" are defined broadly in Peninsular Malaysia to mean *any labour* exercised by way of trade or for the purposes of gain, whether the gain is to a child, young person or any other person.

[CHE 1, § 1] In Switzerland, *all persons occupied in an enterprise covered by the law*, whether permanently or temporarily, during all or part of working hours, whether apprentices, interns, volunteers or for any purpose related to occupational or vocational training or education, are subject to regulation, including that concerning child labour.

[COL 1, § 1] Colombian law expressly states that a person below the specified age can *neither be employed nor work*, making clear the intention to have an absolute prohibition.

Convention No. 138 does not make a distinction as to whether work is paid or unpaid. Thus, even unpaid work is subject to the minimum age rules set by the Convention. Many countries have followed suit.

[LUX 1, § 5]	<p>In Luxembourg, the law on the protection of young workers specifically includes in its definition of child labour both paid work done by children and unpaid work that is undertaken repeatedly and regularly.</p> <p>However, distinctions are more often made with respect to children working in <i>different types of activities</i> and in <i>particular sectors of economic activity</i>, with restrictions being tightened or relaxed according to the type of work in relation to the child's age.</p>
[C138, Art. 2, § 1]	<p>Yet, still at the general definitional level, expressions can be found that <i>limit</i> the response, to preclude the possibility that children will be prevented altogether by law from working.<sup>1</sup> In other words, legislation is worded in such a way as to allow for children to work in certain situations. The following are, for example, categories of persons excluded from certain national legislation that otherwise includes protective elements:</p>
(1) [ARE 1, § 3(f)] (2) [NPL 1, § 2(b)]	<ul style="list-style-type: none"> <li>■ persons who do not fall within the definitions of “employee” or “worker”;</li> <li>■ persons working in enterprises with a specified maximum (1) or minimum (2) number of employees;</li> </ul>
[ARE 1, § 3(e)]	<ul style="list-style-type: none"> <li>■ persons working in agriculture;</li> </ul>
[[ARE 1, § 3(d)] [CHE 2, § 1(g)] [JPN 1, § 116(2)] [KHM 1, § 1(e)]	<ul style="list-style-type: none"> <li>■ domestic servants employed in private residences;</li> </ul>
[ARE 1, § 3(g)]	<ul style="list-style-type: none"> <li>■ employees engaged in temporary jobs which do not take more than six months to complete;</li> </ul>
[ARE 1, § 3(c)]	<ul style="list-style-type: none"> <li>■ members of the employer's family and his relatives by blood or marriage who reside in his home and are effectively and entirely supported by him, irrespective of their degree of kinship or relationship by marriage;</li> </ul>
[JPN 1, § 116(2)]	<ul style="list-style-type: none"> <li>■ businesses which employ only relatives who live together;</li> </ul>
[JPN 3, § 85(1)] [BLZ 1 § 165(2)(a)]	<ul style="list-style-type: none"> <li>■ shipping vessels which employ only members of the same family.</li> </ul>

## Definition of an “employee”

The term “employee” or “worker” can be defined differently from country to country. For example, in Namibia, “employee” means someone: (a) who is employed by, or working for, any employer and who is receiving, or entitled to receive, any remuneration; or (b) who in any manner assists in the carrying on or the conducting of the business of an employer [NAM 1, § 1]. In Japan, a “worker” is one who is employed at an enterprise or place of business and receives wages therefrom, without regard to the kind of occupation [JPN 1, § 9]. And in Rwanda, Burkina Faso and Benin, a “worker” is any person of whatever sex or nationality engaged in a professional activity for remuneration and under the physical or moral authority of another person, public or private [RWA 1, § 2] [BFA 1, § 1] [BEN 1, § 2].

<sup>1</sup> The policy and legislative contexts in which these limits are set are diverse. The examples given should not be understood to exclude broader responses that may have been undertaken in the countries concerned.

[CHE 2, § 2(4)]  
[AUT 1 & 2]  
[GRC 1, § 1((2))]

In sum, definitions of key terms in protective child labour legislation sometimes intentionally establish only limited protections. Such is the case, for example, where the law prohibits only the hiring of children as “employees”. Definitions can sometimes seem confusing, even in cases where broad limits to child labour are intended. This may occur on account of poor drafting or where countervailing policy (with respect to street children, for example) or public opinion (where the public perceives some types of child labour to be harmless) exists. However, policy or legislative responses found in other legislation (in the areas of labour inspection or compulsory education, for example) can fill the gaps left by definitional limits of the concept of ‘employee’.

## Limits to response

[C138, Art. 4(1)]  
[BRB 1, § 11]

Policy and legislative responses, even when *targeted* at work carried out by children in general, are sometimes so specifically or narrowly drafted as to exclude from the prohibition or regulation significant areas where child labour exists. For example, this may happen by naming certain sectors of economic activity in which child labour is prohibited, such as the industrial and maritime sectors, as is the case in Barbados, while leaving out other sectors where the problem may be just as significant. Another example is the exclusion of certain sectors of economic activity or types of work from the coverage of child labour policies or laws.

[C138, Art. 5(1)  
& (3)]

In the case of developing countries, international standards permit limits to be set on the branches of economic activity to which the minimum age applies, as long as certain basic industries are covered.<sup>2</sup> For instance, while commercial agriculture is one of the sectors that must be covered, an exception may be made for “family and small-scale holdings producing for local consumption and not regularly employing hired workers”.

## Family undertakings

Similarly, the following examples of exclusions to the minimum age can be found for family undertakings:

[BRB 1, § 12]  
[VCT2 1, § 7(2)]

■ industrial undertakings in which only members of the same family are employed;

[BRB 1, § 12]  
[VCT 1, § 7(2)]  
[BLZ 1, § 165(2)(a)]

■ family-run ships, or shipping vessels on which only members of the same family are employed;

[GRC 2, § 1(2)]

■ farming, forestry or cattle-breeding activity within a family business.

The premise behind these exclusions is that family members will not exploit their own children – an assumption that is not always borne out in reality. Where national policy or legislation is designed to be limiting, modern practice requires that allowing children to work in certain types of enterprises – such as family undertakings – be well justified.

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<sup>2</sup> Mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes. [C138, Art. 5(3)]

## Parental consent

[C138, Art. 2(1)]

A factor narrowing the scope of policy and legislation relates to parental consent. What role does parental consent to their children working play in modern practice? Can parental consent override a prohibition of children working under a set age? Can parental consent override specified basic working conditions where the child has attained the minimum age for that particular type of work?

(1) [CAF 1, § 2]  
 (2) [BEN 2, § 3]  
 (3) [BLR 1, § 272]  
 [PHL 1, § 139(a)]  
 (4) [CAN 1, § 2]  
 (5) [CAN 2, § 52(1)]  
 [USA 1, § 213(c)]  
 (4)(B)(i)]

Many countries allow children to work provided they have parental consent – explicitly or implicitly and to a greater or lesser extent. A very broad and often-used limitation relies on the premise that work done by children in enterprises *in any branch of economic activity* – as opposed to specified branches of activity – in which only family members are employed, sometimes coupled with the mother’s, father’s or guardian’s management of the enterprise (1), will be of a benign nature. The assumption is that parental consent and the presence of family members in the enterprise are sufficient to ensure the child will not come to any harm. The requirement of the presence of family members or parental consent can sometimes be seen explicitly in legislation governing children’s work (2). In other examples, parental consent may be required but would in any case not be sufficient to allow the work if it would be detrimental to the child’s health, development or school attendance (3) or to the child’s capacity to benefit from instruction at school (4). The idea that detriment to schooling is determinative – even in the face of parental consent – is seen in a number of countries (5).

(1) [UKR 1, § 188.2]  
 (2) [EST 1, § 2]  
 [ROM 2, § 13(2)]  
 [KHM 1, § 181]  
 (3) [IDN 1, § 1601(g)]

Some countries permit parental consent to *override* legal instruments setting a minimum age for employment. For example, in Ukraine, the employment of persons who are at least 15 years of age is permitted, as an exceptional matter, with the consent of one of the parents or a person who replaces them (1). A similar approach in respect of a child’s capacity to contract is to give the parent authority to consent to an employment contract where the child involved is below the legal age to conclude an employment contract (2). In at least one case, parental consent can be given either in writing or orally (3).

## Parental consent to voluntary enlistment of a child in military service

Obligatory parental consent to the voluntary enlistment of persons under the age of 18 years – is a common modern practice. The parameters of the admission of children below 18 to military service are established by a number of international standards:

- The ILO's Worst Forms of Child Labour Convention, 1999 (No. 182) sees the forced or compulsory recruitment of persons under the age of 18 for use in armed conflict as a worst form of child labour to be eliminated as a matter of urgency. *Voluntary enlistment* into the regular armed services, even to take a direct part in hostilities, is not unconditionally prohibited by the Convention, although a country could establish as a matter of policy that such work, by its nature and the circumstances in which it is carried out, is likely to harm the health, safety or morals of children, and thus ought to be eliminated as a matter of urgency. [C182, Art. 3(a) & (d) and Art. 4]
- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 2000, foresees that persons who have not attained the age of 18 years do not take a direct part in hostilities and are not compulsorily recruited into the armed forces (even to perform work independent of hostilities). [Art. 1 & 2] The Protocol permits voluntary recruitment of persons under the age of 18 years into national armed forces provided that safeguards are put in place to ensure, as a minimum, that: (a) such recruitment is genuinely voluntary; (b) such recruitment is carried out with the informed consent of the person's parents or legal guardians; (c) such persons are fully informed of the duties involved in such military service; and (d) such persons provide reliable proof of age prior to acceptance into national military service. [OPCRC, Art. 3(3)]

In setting policy and legislative responses within this framework, at least one country, New Zealand, has reported to the UN Committee on the Rights of the Child that it requires *informed* parental consent before voluntary enlistment of young persons into non-combative armed services [NZL 1]. Legislation in other countries, for example Barbados and Ireland, specifies only that parental consent is required for enlistment of a person under 18 years of age in the regular force [BRB 2, § 35] [IRL 1]. With 122 signatories and 110 State parties to the Optional Protocol as at 1 January 2007, modern practice in this field looks set to follow the Protocol's requirements.

## Gender distinctions

[C138, Article 2(1)]

What part does gender play? Are distinctions based on gender made in modern practice? Are there differences in the minimum age, either higher or lower, for girls and for boys? Does this approach apply only to certain types of work and not to others?

(1) [BFA 2, § 16]

(2) [MDG 1, § 7]

Surprisingly few gender distinctions can be found in the *rules* governing children's work. These distinctions, where they do exist, seem to be remnants of old laws and practices. In Burkina Faso, for example, such a distinction is made in the mining industry, where girls and women of any age have historically been prohibited from working underground (1). Even where women are permitted to work underground, such as in Madagascar, boys from the age of 16 are allowed to do light work in mines, but girls are not allowed to do any work underground before the age of 18 (2).

Other examples of gender-based distinctions include:

- [BLZ 1, § 162(2)] ■ allowing for male apprentices to do night work from 16 years of age, while female apprentices must be 18;
- [MYS 1, § 2(3)] ■ prohibiting girls below 16 years of age from being employed in hotels, bars, restaurants, boarding houses or clubs unless the establishment is under the management or control of a parent or guardian;
- [BEN 3, § 5]  
[CMR 1, § 9] ■ setting different maximum weights which girls and boys may carry in the course of work;
- [MDG 1, § 17]  
[CMR 1, § 19] ■ prohibiting girls less than 16 years of age from working with pedal sewing machines; .
- [CAF 2, ¶ 64] ■ setting the age of obligatory schooling for girls at 21;
- [FIN 1, § 5] ■ permitting boys of 16 years of age to conclude contracts for maritime work, but requiring girls to be 17.

See also under sexual exploitation and trafficking for other provisions relating to girls and boys.

## Sectoral approaches

Some countries have responded to the problem of child labour by regulating and setting limits on work done by children in *different sectors* of the economy. One type of sectoral response is to exclude a sector from the protective coverage of the law.

[NGA 1, §§ 59(2)  
& 91(1)]

In Nigeria, where persons under the age of 15 cannot be employed or work in any industrial undertaking, it is specified that an industrial undertaking *does not include* any commercial or agricultural undertaking.

Conversely, countries have set prohibitions and established regulations on children doing work in particular sectors.

(1) [SYR 1, § 47]  
(2) [SYR 2, § 124]

In the Syrian Arab Republic, the law regulating agricultural relations prohibits the employment of young persons in agricultural work if they have not attained the age of 15 years (1). In a separate law, the Labour Code, the minimum age for entry to any kind of employment, as well as to any workplace, is also set at 15 years (2).

[BRB 1, § 11]

In Barbados, persons who have not attained the age of 16 are prohibited from being employed in any industrial undertaking or on a ship.

## Agriculture

Since much agricultural work is hazardous, specific measures regulating children's work in this sector can be found. Some countries limit children's work in the agricultural sector even when it is not hazardous.

Agricultural employers are, for example, given special responsibilities with respect to young persons lawfully working for them. These include:

[TUN 1, § 373]

- ensuring respect for public decency where persons younger than 16 years of age are working;

- [TUN 1, § 74]  
[IRL 2, § 8] ■ providing special guarantees of hours of work and rest for young persons.
- The hazardous nature of agricultural work is recognized in some legislative provisions, for example:
- [URY 1, § 8] ■ setting an explicit requirement for persons under the age of 18 to have *specific authorization* to do forestry work, and then only low-risk work and work that does not involve the handling of toxic agricultural chemicals;
- [PAN 1, § 119] ■ permitting children between the ages of 12 and 15 to do only light agricultural work outside of normal school hours.
- [ARG 1, § 107] In other countries, laws make it *easier* for children to work in agriculture, sometimes excluding agriculture entirely from the scope of labour law. In Argentina, for example, the usual minimum age is specifically *not applicable* to family-held agricultural enterprises, provided the work does not interfere with schooling.
- [BEN 4] Conversely, in Benin, a higher minimum age is set for entry to agricultural training institutions than to industrial or vocational training institutions.

## Maritime sector

- (1) [JPN 3, § 85(1)]  
[BRB 1, § 12]  
[BLZ 1, § 165(2)(a)]  
(2) [(BHS 1, Part X, § 56)  
(3) [ISL 1, § 1]  
[BLZ 1, § 165(2)(b)]  
(4) [BRB 3, § 103(2)]  
[BLZ 1, § 165(1)(b)]  
(5) [VCT 1, Part 1, § 4.2]  
[BLZ 1, § 166]
- Generally, the response to children working in the maritime sector has been to set a higher minimum age or otherwise impose more restrictions because of the inherently dangerous nature of such work. Despite this, perhaps oddly, some countries set fewer or no restrictions where children are to work *with parents and family* on board ships (1). Such provisions no doubt have at least coastal fishing in mind. A similar provision may cover ships *within the territorial waters* of the country concerned (2). Work on *school ships and training vessels* may also be excluded (3). In addition, provisions can be found requiring that a young person undergo a medical examination prior to employment in the maritime industry (4) or that a register be kept of young persons employed on board a ship (5).

## Domestic work

- (1) [NGA 2, §§ 28 & 277]  
(2) [ZMB 1, § 4]
- Domestic work done in the home of third persons (as opposed to domestic chores done in one's own home) can be subject to a specific prohibition. For example, under Nigerian law no person under the age of 18 can be engaged as a domestic worker outside his or her own home (1). A minimum age can also be set to cover even domestic work done in an undertaking where only members of the same family are employed. This can be relevant to situations where several members of a family are employed in the domestic service of a third party; the underage children of the employed family members are prohibited from working in that household (2).
- [ARE 1, § 3(d)] Domestic work is unfortunately often excluded from the scope of protective labour law, creating ambiguity as to the applicable minimum age for entry to work in this sector.



## Setting the minimum age for entry to work

Once work has been categorized – into such groups as family enterprises, particular types of enterprises or sectors of economic activity or into “hazardous work” and “light work” (see below) – the traditional response is to set a minimum age for entry to that work.

[C138, Art. 2(3)] Convention No. 138 calls for a general minimum age of 15, as well as minimum age levels for admission to light work and hazardous work. It also requires that, where there is compulsory schooling, the general minimum age not be less than the end of compulsory schooling. There are different ways to phrase these ideas within a piece of legislation. The classic method, following the international standard, is to establish a *basic minimum age*, with or without explicit reference to the end of compulsory schooling, and then to create exceptions to that minimum, here too ensuring that compulsory schooling obligations, if they exist, are respected.

[CHE 2, § 30] In Switzerland, the basic minimum age for entry to employment is 15 years, but young persons who are at least 13 years of age may run errands or do light work (see section 1.2), and persons less than 15 years of age may work in the context of cultural or artistic endeavours or public sporting events (see section 1.4). Furthermore, local authorities that have set compulsory schooling to end before the age of 15 may give special dispensation to children who are more than 14 years old and free from school to enter employment.

[RWA 2, §§ 11 & 65] In Rwanda, the basic minimum age for entry into employment is 16 years, but the Minister of Labour may make exceptions in special circumstances, within certain limits. These limits include that the child be at least 14 years of age and that the work be light in nature and not such as to threaten his or her health, development or participation in education programmes. Furthermore, the child may engage in the work only with a parent’s permission and only if the work is authorized in a temporary and exceptional manner by the Minister of Labour, taking into account the particular circumstances of the occupation and the individual’s personal situation. In any case, children under 16 years of age may not work during the night or in conditions that are unhealthy, difficult, dangerous or detrimental to their health or education.

[FIN 2, § 2]  
[SMR 1, § 8] In line with the international standard, legislation setting a basic minimum age in a country where compulsory schooling also exists, commonly includes a requirement that the age for completion of compulsory education correspond to the minimum working age, stating that a child must attain the required minimum age *and* have completed compulsory schooling before entry to employment.

[C138, Art. 5(1)]  
[CAF 3, § 125]  
[NIC 1, § 73; 2, § 131]  
[EGY 1, § 64] Some developing countries that have difficulty in enforcing a minimum age of 15 have taken advantage of the ILO standard’s flexibility by setting a minimum age of 14. Others have voluntarily fixed the minimum age at 16 (e.g. Brazil, China and Kenya), which is higher than some industrialized countries.

- [GBR 1, § 18] In the United Kingdom, no person under the age of 13 may do any work, paid or unpaid. The minimum age regime is otherwise tailored to the age of compulsory schooling, that is:
- Young people aged between 13 and the minimum school leaving age may not do any work, paid or unpaid, (i) before 7 o'clock in the morning or after 7 o'clock at night; (ii) for more than two hours on a school day or Sunday; (iii) for more than 12 hours a week during school term; or (iv) in the holidays for more than 25 hours a week – 35 hours if aged 15 or over.
  - Young workers who are over the minimum school leaving age but under 18: (i) must not work for more than eight hours a day or 40 hours a week; (ii) must have a break of 30 minutes every 4½ hours worked; (iii) must have a rest period of 12 hours between each working day; and (iv) must have two days off a week.

## Economic and penal sanctions for infringement of the legal minimum age for work

- [C138, Art. 9(1)] Adults often control child labour. They are responsible for its proliferation, benefit from its use and make economic gain from it. By prohibiting and sanctioning child labour, countries have favoured the longer-term benefit to the State of keeping children out of work over the short-term benefit of child labour to those who use it. Convention No. 138 calls for “all necessary measures, including the provision of appropriate penalties,” to ensure the effective enforcement of a minimum age for entry to work. This section looks at different approaches taken to fulfilling this obligation, in particular the enforcement of minimum age provisions.
- [GBR 1, § 21] As might be expected, legislative practice typically makes the *user* of underage labour liable to sanction. That is, policy and legislation do not typically call for the sanctioning of working children, many of whom are working on their own account. In one case, however, a policy favours *making the child liable* to penalty. This example concerns a person under compulsory school age who engages in street trading in contravention of the law. Interestingly, this same provision calls for the sanctioning of the *employer* of a child labourer and any other person “to whose act or default contravention of the law is attributable” – but explicitly *not* the person employed. The rationale for this is apparently that if an adult is responsible for putting a child to work he or she should be punished and not the child; but if no adult is involved responsibility for compliance is attributed to the child.
- [CYP 1, §§ 54 & 57] An example of a broad approach is to make liable to fine and/or imprisonment any person over the age of 16 who puts a person under the age of 16 in harm's way or, more specifically, uses a child for the purposes of begging.

In some countries, *administrative penalties* are imposed on those who use child labour. Administrative penalties are sanctions imposed by administrative, as opposed to judicial, authorities. Labour inspectors, for example, typically have some authority to issue an order that an employer take some action, without the need for a formal hearing. The required action might be, for example, to correct a condition of work at the workplace – such as the use of underage employees in hazardous work – or to pay a fine, or both. Administrative penalties are typically legally binding orders, although they may be appealed. Even if it is appealed, an order must often be complied with pending appeal. Administrative penalties typically do not generally involve imprisonment, although the alleged perpetrator may still be arrested and charged with a criminal offence engendering a possible penal sanction. A judicial authority sitting formally to hear all sides of the case would decide if the law has been violated and if a penal or further economic sanction should be imposed.

[NAM 1, §§ 23 & 44] In Namibia, the labour court is authorized to order an employer to discontinue the employment of children alleged to be underage, pending adjudication. Any person who contravenes or fails to comply with such an order may be found guilty of an offence and liable to penalties which may be imposed for contempt of court.

[ECU 1, §§ 156, 443, 626] In Ecuador, a suspension and the closing of work premises can be authorized for the breach of rules applicable to work by minors, such as the general prohibition of work by persons under 14 years of age, the allocation of free hours to attend school, the prohibition of certain work by those under 18 years of age and the prohibition of night work.

*Economic sanctions* – fines – are typically imposed for employing children.

[KNA 1, § 6] In Saint Kitts and Nevis, a person guilty of an offence under an act dealing with the employment of young persons is liable to a fine.

(1) [HRV 1, § 228.1(xii) & (xxvii)]  
(2) [ZAF 1, § 46(a)] In Croatia, an employer may be made liable to a fine for employing a minor without the permission of his or her legal representative or for insisting that a minor work overtime (1). In South Africa, a person who assists an employer to employ a child in contravention of the law may also be made liable to a fine (2).

(1) [MRT 1, § 49, titre V, livre VI]  
(2) [USA 1, § 216(e)]  
(3) [IRL 3, § 25(2)] A general rule for the imposition of a fine needs to deal with repeated infractions. If a person employs 55 children, is the penalty for violation the same as if that person employed only one child? Or should the fine be 55 times greater? In Mauritania, for example, the normal limit for violations of labour law is 50 times the maximum penalty applicable to an individual violation, but there is no limit when it comes to the violation of child labour prohibitions (1). A similar liability exists in the United States, without limit, for each employee who is the subject of a violation of the law (2). In Ireland, where a person after conviction continues to contravene the provision concerned, the person is held to be guilty of an offence on every day on which the contravention continues, and for each such offence is liable to a fine of not more than a specified amount, which happens to be about 17% of the original fine (3).

- [MEX 1, § 35]  
[BEN 5, § 132] In many countries, it is a crime, subject to *criminal penalties*, including imprisonment, to use child labour. This is particularly the case where the worst forms of child labour are concerned (see also Chapter 2 on the worst forms of child labour).
- [UKR 2, § 150] In Ukraine, the exploitation of child labour may lead to a penal sanction of up to six months' detention or three years' imprisonment, together with a prohibition on the offender holding certain positions or engaging in certain activities afterwards for a period of three years. The same act pertaining to several children or entailing serious consequences for a child's health, physical development or level of instruction or involving hazardous work is punishable by two to five years' imprisonment, together with a three-year prohibition on taking up certain posts or certain activities afterwards.
- [IDN 2, §§ 74(2) & 183] Indonesia uses the terminology and, to all intents and purposes, the definitions of Convention No. 182 to determine offences with corresponding sanctions to be applied for employing or involving children in the worst forms of child labour.

## Policy and legislation that enhance response

Some policy and legislation go beyond the mere setting of a minimum age for entry to work or employment. Those dealing with the worst forms of child labour are discussed later in Chapter 2; others are dealt with in this section.

### Raising the minimum age

- [C138, Art. 1]  
[BFA 3] To be consistent with international standards, the aim of modern practice should be to try to raise the minimum age over time. Although a country undertakes, upon ratification of Convention No. 138, to *give effect* to the idea of progressively raising the minimum age for entry to employment, this obligation does not always appear to be embodied in policy or law. In certain cases, however, ratification of Convention No. 138 has resulted in the formulation of national policy specifically incorporating the objective of increasing the minimum age.

### Limiting the capacity to contract

- Besides having policies and laws preventing persons younger than a set age from being employed or working, some countries make special provisions to limit the possibility of such persons entering *legally* into a contract of employment.
- [CPV 1, §§ 155–156] To a certain extent, a provision regulating the capacity to contract may serve to set the minimum age for work. For example, in Cape Verde, any contract of employment made by a person under 14 years of age is legally null and void, while a contract made by a person under 18 years of age may be annulled at the request of either of the parties to the contract or a representative of the minor involved.

- (1) [ERI 1, § 9(2)]  
 (2) [CPV 1, § 155]  
 (3) [CPV 1, § 156]  
 (4) [SWZ 1, § 100(3)]
- What happens, then, if an employer attempts to contract with an underage person? Modern practice suggests that the choice is between making the contract unenforceable (1), making the contract null and void (2) or making it possible for the contract to be annulled at the request of the parties (3). In such cases, the law generally provides that the young person is nevertheless entitled to accumulated wages and benefits and that the employer should pay them (4).
- [NIC 3, § 278]
- In some cases, a limitation implied in the age of majority has no relationship to entry to employment. Thus, in Nicaragua, only persons 21 years and older may make an enforceable contract, while the minimum legal age for entry to work is 14 years. Several approaches have been adopted to redress this gap between the minimum working age and the legal capacity to conclude a contract:
- [CRI 1, § 46]
- declaring that the age for making a legal contract of employment does not imply attainment of legal majority, thus making it possible to leave intact general law setting the age of majority higher than the minimum age for entry to employment;
- [HRV 1, § 15(1)]
- requiring that a legal representative authorize a minor's contract of employment, whereupon the minor becomes empowered to perform the contract and exercise all rights under it and in connection with it;
- (1) [BLZ 1, § 31]  
 (2) [BLZ 1, § 54]
- providing that a person under the ordinary age of legal majority may *nevertheless* make a contract of employment (1), but that a person under the minimum age for entry into employment may not enter into such a contract (2);
- [KAZ 1, § 11]
- giving persons 16 years of age or older an unconditional right to contract for employment, while 15-year-olds may only enter a contract of employment with the written consent of a parent/guardian and if compulsory secondary education has been completed. The provision further allows a 14-year-old to enter a contract of employment provided parental consent is given and the work does not interfere with schooling or present a risk to the child's health;
- [MEX 2, § 23]
- setting the minimum age for entry to work at 14 years, but requiring parental permission for persons between the ages of 14 and 16; after 16, a person is free to work without parental permission.

## Strengthening methods of documenting and ascertaining age

A clear response to the use of children in work generally assumes that the age of the child is known and verifiable. Practice, therefore, has been to require the recording of workers' ages.

- (1) [BLZ 1, § 163(1)]  
 [KHM 1, § 179]  
 [LTU 1, § 58(4)]  
 (2) [BDI 1, § 168]  
 (3) [MDG 2, § 1]  
 (4) [BFA 4, § 8]  
 (5) [BRB 1, § 19]  
 (6) [BLZ 1, § 163(2)]
- Typically, employers are required to keep a register of employees less than 18 years of age, along with their birth dates (1). Examples of a broader approach include requiring that a register be kept of all permanent employees, along with their birth dates, as well as any temporary, daily, seasonal and fixed-term employees (2). Requirements for registers can be specific, listing how many columns and what kind of data should be collected and documented for each employee (3). A separate register for apprentices may be required (4). In some

cases, the requirement to keep a register of employees applies only to a particular sector, for example industrial undertakings or on ships (5). These registers are often required to be available to labour inspection. Sanctions – both economic and penal – may be imposed in some jurisdictions for not keeping the required register (6).

- (1) [MEX 2, § 180]
- [IRL 3, § 5(c)]
- [ECU 1, §§ 42, 144 & 147]
- (2) [GBR 2, § 1(5)]
- (3) [GUY 1, § 3(3)]
- (4) [JPN 1, § 57]
- (5) [GBR 3]
- (6) [CHE 3, § 10]

Sometimes the ages of young workers are registered alongside other details and the conditions of employment (1). On occasion, the requirement to register young persons is limited to particular sectors, such as the maritime sector (2) or industrial undertakings (3). Enterprises may be required to keep copies of birth certificates of employees under a certain age (4). Obligations under tax and insurance regulations may include reporting the age of workers (5). In Switzerland, employers of domestic workers are required to register them, along with their ages, with local authorities. In exchange, they receive a certificate, which must be held at the place of work ready for any inspection visit (6).

- (1) [NAM 1, § 4]
- (2) [QAT 1, § 91]

Employers may be required to submit returns with data on persons employed, including their ages, to the competent authorities (1). Some countries require that records be kept of medical examinations of young workers (2).

- (1) [EGY 2, § 67]
- (2) [SAU 1, § 163]

In Egypt, the employer is required to establish a special identity card for each worker under the age of 16 (1), while in Saudi Arabia, the employer must include a certification of age in each worker's personal file (2).

- [ECU 2, § 85]

Ecuador has a slightly different approach, whereby the Ministry of Labour keeps a register of working adolescents, based on information provided by employers. The Ministry is further required to provide the information in the register periodically to local child welfare authorities.

- (1) [SAU 2, ¶ 64]
- (2) [COL 2, § 241]

One problem often encountered is that of *establishing for certain* a worker's age. Some approaches, therefore, aim to improve documentation of a child's age. Ideally, this begins with registration at birth. In later life, the child can then find and show proof of his or her age. However, in many parts of the world, births are not registered. A certificate with an estimate of age, based on a medical examination, can be obtained in at least one country (1). A system of birth registration is essential not only for regulating the minimum working age, but also for many other aspects of children's rights (e.g. education). Legislation can be put in place to establish this as a policy and operational priority (2).

## Non-registration of children at birth, 1998

### No data

Benin, Bhutan, Burkina Faso, Central African Republic, Republic of Congo, Democratic Republic of the Congo, Côte d'Ivoire, Ecuador, Georgia, Haiti, Iraq, Lao People's Democratic Republic, Madagascar, Nepal, Nigeria, Saudi Arabia, Senegal, South Africa, Tanzania, Togo, Viet Nam

### No birth registration system

Afghanistan, Cambodia, Eritrea, Ethiopia, Namibia, Oman, Somalia

### Less than 30% of children registered at birth

Angola, Bangladesh, Guinea-Bissau, Lesotho, Liberia, Malawi, Mozambique, Niger, Papua New Guinea, Rwanda, Sierra Leone, Zambia

### Less than 50% of children registered at birth

Botswana, Myanmar, Cameroon, Chad, Ghana, Guinea, India, Kenya, Mali, Mauritania, Sudan, Uganda, Yemen, Zimbabwe

Source: UNICEF – *The Progress of Nations 1998 as reproduced in Right to Education Primers No. 2, Free and compulsory education for all children: The gap between promise and performance, K. Tomaševski (UNESCO, 2001), p. 30.*

## Raising awareness

Some countries have set down policy or legislation aimed at raising awareness of the issue of children working in general, in addition to the worst forms of child labour.

- (1) [NZL 2]
- (2) [KHM 2]
- (3) [IDN 2]
- [MDG 3, § 1159]
- [PHL 3]
- (4) [PHL 4]

A popular starting point in many countries for raising awareness of child labour is the *formation of a committee*. This may be an interdepartmental or interministerial committee (1), a tripartite national steering committee to coordinate child labour activities in the country (2) or a tripartite committee including representatives of civil society (3). Industrial committees have also been reported (4).

- [GBR 4, § 6]
- [BRA 1]
- [THA 4]

In some cases, a *plan for raising awareness* of child labour is explicitly set out in the national child labour policy or plan of action, underscoring the value of such efforts.

- (1) [KOR 1]
- [PHL 4, § 1]
- (2) [PRT 1]

An important first step in raising awareness of child labour is to familiarize the public with national legislation in this area, particularly laws setting a minimum age for entry to employment or work and for compulsory schooling. Thus, some countries have made *awareness of legal provisions* a priority. Mass distribution of brochures on the subject was carried out in the Philippines (1). Another approach widely used, for example in Portugal, is to popularize and make accessible guides to legislation and child labour resources (2).

[TZA 1, p. 18]

*Formal education institutions* are seen as a useful arena for awareness raising, as they provide access to children, parents and teachers, as well as to teachers' organizations. Tanzania's approach is to raise awareness of child labour, while stressing the importance of good quality, relevant and accessible education in combating child labour.

[TUR 1]

One approach is to focus on *groups of professionals* likely to encounter child labour. In Turkey, for example, a project was undertaken to make security personnel aware of issues related to children living and/or working on the streets.

(1) [PHL 3]

(2) [BGD 1, Annex 3]

[LKA 1]

*Staging events* can be effective in heightening public awareness. In the Philippines, child labour "days" and "weeks" are organized in various contexts, such as the anniversary of the Global March Against Child Labour and the World Day Against Child Labour, as well as on specific themes, such as the girl child or child abuse and exploitation (1). Mass meetings can also be held to highlight child labour issues. Similarly, specially designated weeks, rallies, radio and television programmes and other such events serve to promote ILO Convention No. 182 and its ratification (2).





## New Zealand: Child Labour Officials Advisory Committee

To raise public awareness and understanding in New Zealand of ILO Convention No. 182 and to encourage initiatives to identify and eliminate the worst forms of child labour, the New Zealand Government formed the Child Labour Officials Advisory Committee (CLOAC). Chaired by the Department of Labour, CLOAC is a multi-agency government committee with representatives from the Department of Labour, the Ministries of Foreign Affairs and Trade, Police, Justice, Social Development, Pacific Island Affairs, Youth Affairs, Te Puni Kokiri (Ministry of Maori Development) and the Department of Child, Youth and Family Services. CLOAC consults closely with the New Zealand Council of Trade Unions and Business New Zealand.

CLOAC's focus to date has been on raising awareness through information dissemination and education programmes. Some of the activities CLOAC has been involved in include:

- developing a website on Convention No. 182 on the Department of Labour website, to which CLOAC members are linking their own websites;
- distributing through its network of contacts 100 copies of the publication, *Eliminating the Worst Forms of Child Labour*;
- publicizing Convention No. 182 in the newsletter of the Ministry for Foreign Affairs Human Rights Division, which is distributed every six months to other Government departments and civil society groups and provides updates on international human rights issues in which New Zealand is engaged;
- incorporating information on the protections offered by Convention No. 182 in the "Keeping Ourselves Safe" school programme run by the New Zealand police;
- writing to non-government agencies about Convention No. 182 and inviting them to provide data on people aged 18 years or under involved in any of the worst forms of child labour in New Zealand, as well as information on their experience of programmes of action and rehabilitation;
- developing information-sharing and consultation mechanisms with social partners, other interested agencies (e.g. Human Rights Commission, Office of the Commissioner for Children and other non-government agencies) through six-monthly meetings.



Source: New Zealand Department of Labour website: <http://www.dol.govt.nz/services/international/child/int-convention182.asp>

## 1.2 Response to children doing light work

It is widely acknowledged that, while a minimum age for work needs to be enforced, there are cases where children's work, under certain conditions, causes no harm to their health or well-being nor hinders their schooling. This type of work is termed "light", and may be regarded as acceptable or even beneficial to the child's development. In practice, school-age children often take up certain "light" work alongside schooling, even in developed countries. A common assumption is that there exists some control, e.g. by the parents, of the work children do, to make sure that it is indeed light, that it takes into account the child's ability to perform the required tasks and that it does not interfere with other obligations such as going to school.

### Definition of light work

The definition of light work – where the concept has been applied – varies from country to country.

[C138, Art. 7(1)]

ILO Convention No. 138 sets the standard for "light work", stating that it is work that is:

- (a) not likely to be harmful to [children's] health or development; and
- (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

[ALB 1, § 4]  
[TUR 2, § 4]

Some countries adopt this standard virtually word for word. Others add concepts such as:

[GBR 1, § 18(2)(a)]

■ not harmful to "safety";

[NER 1, § 128]

■ setting an absolute limit on the number of hours worked, or a limit on hours in a work day or work week if the work involved is to be considered "light"; or

■ allowing children from a certain age to do occasional light work in enterprises where only members of the family of the proprietor are employed.

[KHM 1, § 177(4)]

Others omit an element, such as that relating to the capacity to benefit from instruction.

(1) [GBR 5,  
§ 2 Schedule]  
[CHE 1, § 52]  
(2) [JPN 1, § 56(2)]

In some cases, lists of occupations – implicitly light work – are drawn up specifying that children may not be employed in any occupation *other* than those included on the list (1). Alternatively, the types of work that are not considered "light" are listed (2).

## Setting minimum ages and conditions for light work

[C138, Art. 7(1)] International standards provide that children from age 13, and exceptionally age 12 where the general minimum age is 14, may be allowed to do light work, as defined. National laws are developed according to this benchmark, often stated in combination with the conditions only under which such work may be undertaken.

[BWA 1, § 110(1)] In Botswana, a child who has attained the age of 14 years and is not attending school may be employed to do certain light work not harmful to his or her health and development.

There are at least two ways of setting out conditions under which persons younger than the basic minimum age are permitted legally to do “light” work. The first is to *establish that the work is “light”* by designating it so – by way of a definition or a list of permitted tasks/occupations, for example – and then attaching conditions. The second is to declare work as “light” *only if it meets certain conditions*.

The conditions that the work neither harm the child nor interfere with his or her schooling are the minimum requirements in terms of international standards. Other conditions include:

- [SYR 2, § 124(d)]  
[RWA 2, § 65] ■ prohibiting the work being done during a period falling during the night;
- [CHE 1, § 52(2)] ■ requiring that the work be done only during daytime hours;
- [SYR 2, § 124(d)]  
[CHE 1, § 52(2)] ■ limiting the number of hours that may be worked during a day;
- [CHE 1, § 52(3)] ■ limiting the number of hours worked per week;
- [SYR 2, § 124(d)] ■ requiring rest periods during stretches of work;
- [AUT 1, § 5(a)] ■ requiring that the work only be done outside hours specified for school attendance, coupled with a limitation on the number of hours of work on school days;
- [AUT 1, § 5(a)(1)] ■ requiring the consent of a parent or legal representative.

(1) [AUT 1, § 5(a)(1)]  
(2) [NIC 2, § 134] The restriction imposed in one country that light work not be carried out in the context of an employment relationship (1) could be at odds with the idea that any work done by children, as long as it is done legally, should be protected and remunerated in the same way as work done by other workers (2). An interesting policy dilemma thus arises: should light work done by children be treated in the same way as work done by anyone else, or should it be seen as something less than *real* work? The approach ultimately taken to this problem could have implications for enforcement, if the impression is created that light work done legally by children is something less than real work and thus not really a proper subject of supervision by the authorities.



[AUT 1, § 5(a)]

One approach is to *require parental consent* to a child undertaking light work, coupled with an obligation on the parent or legal representative to ensure that the work is not actually detrimental to the child's health or schooling.

Certainly, there is no obligation on States to allow work to be done by children under the set basic minimum age; a single basic minimum age for entry to work would be sufficient.

(1) [KHM 1, § 368]

[TUR 3, § 104]

[SYR 2, § 216]

(2) [JPN 1, § 118]

[BWA 1, § 172 (b) & (c)]

[AUT 1, §§ 30–31]

Countries' responses to violations of the rules governing light work are similar to those for violations of other rules governing the employment and work of children. Penalties may include a fine (1) or a fine and the possibility of imprisonment (2).

## 1.3 Response to children doing work that is part of training or education

Children sometimes do work as part of formal training or education programmes. Permitting children to work under such circumstances is typically part of an educational policy designed to improve the child's future employability. Since this work is part of a formal curriculum, it often automatically entails certain conditions or requirements that limit its use and the possibility of exploitation.

[C138, Art. 6]

ILO Convention No. 138 responds on two levels to children doing work as part of formal training or education.

First, it states that the Convention – and its scheme of minimum ages for entry to work or employment – does not apply “to work done by children and young persons in schools for general, vocational or technical education or in other training institutions”.

Second, the Convention does not apply

to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, and is an integral part of

- (a) a course of education or training for which a school or training institution is primarily responsible;
- (b) a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or
- (c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

(1) [GBR 6, § 560(i)]  
 (2) [BRB 1, § 12]  
 (3) [BRB 1, § 12]

More generally, policy may take account of situations where work in some way is associated with education or training, without being a fully integrated part of the formal education or training programme. For example, the prohibition or regulation of the work of children may be made inapplicable to a child who is in his or her last year of compulsory schooling, if the work is in pursuance of an arrangement made or approved by the education authorities (1). Alternatively, national law may simply exclude from minimum age provisions work done by children in technical schools (2) or on school ships or training ships supervised by a person authorized by the Minister responsible for labour (3).

## Definition of training or education

[C138, Art. 6] Modern practice in policy and legislation strictly defines training or education and the manner in which work relates to it, with a view to ensuring that the work is *bona fide*, namely that it is actually for the purpose of training or education. Under such circumstances, normal minimum age provisions are relaxed. For example:

[BRB 3, § 103(1)] ■ where the work is *aboard ship*, the ship must be a school or training ship registered by the competent authority, or the competent authority must certify that the employment would be beneficial to the young worker;

[BLZ 1, § 164] ■ where the work is undertaken in any *school or other institution*,  
[MYS 1, § 2(3)(c)] ■ the assumption is that the work is connected to education or training,  
[TUN 1, § 53(2)] or

[LKA 2, § 14(1)(b)] ■ where such an institution is supervised by a public authority and imparting technical education or other training for the purpose of any trade or occupation;

[TUN 1, § 53(2)] ■ where the work takes place *in an enterprise*, the work must be part of a  
[IRL 3, § 3(6)] programme of vocational training agreed by the competent public authorities.

The concept of apprenticeship does not, in itself, imply work done by children or young persons. An apprentice may be a middle-aged worker changing occupations. Yet most countries link apprenticeship with youth by, for example:

[FRA 1, § 117-3] ■ applying a minimum and a maximum (e.g. 25 years) to the starting age of an apprenticeship;

[BRA 6, §§ 7 & 155, § 403] ■ applying to apprentices a minimum age lower than the basic minimum  
[ECU 1, §§ 158(4) & 161(4)] age for work; or

[COG 1, § 1] ■ applying to apprentices a minimum age that is the same as the basic minimum age for work.

There may, of course, be other terms and conditions relating to the apprenticeship arrangement, beyond the issue of age of entry to that employment.

## Limiting and setting conditions on children's work in connection with training or education

- [C138, Art. 6] Modern practice sets limits or conditions on work done in the context of training or education. These can be time limits, limits on types of work or limits of other kinds, such as:
- [CHE 1, § 54(1)] ■ requiring that work done as part of training or education be neither physically nor morally harmful nor disruptive to education – not dissimilar to the definition of “light work”;
- [ERI 1, 69(1)] ■ specifically prohibiting young workers, *even if they are apprentices*, from doing hazardous work;
- [ITA 1, § 6(2)] ■ authorizing the lifting of limitations on hazardous work in the case of persons under the age of 18 *in training*, provided health and safety legislation is respected;
- [ETH 1, § 89(5)] ■ removing the minimum age for work in vocational schools where, for example, the schools have been approved and inspected by the competent authorities.
- (1) [FRA 1, § L. 117-5-1]  
(2) [MRT 1, §§ 63–64]  
[BWA 2, § 18(1)], §172B
- Modern practice includes responses to *abuse of situations*, where children are said to be in training or education or under apprenticeship arrangements, when they are not. In such cases, contracts of apprenticeship may be suspended (1) or fines and penal sanctions imposed (2).
- [ECU 2, § 86] There are also cases where children do work for training purposes outside of formal arrangements and undertakings but in circumstances considered locally to contribute to the training and development of children's capacities. At least one country has removed the minimum age with respect to work considered to be part of ancestral training practices, on condition that the physical and psychological development of the adolescents concerned is respected, in the sense that:
- only work in keeping with their capacities and stage of development is given to them;
  - the work contributes to the training and development of their capacities;
  - the work transfers values and cultural standards in harmony with the adolescents' development;
  - the work takes place in the environment and for the benefit of the community to which the adolescents and their families belong.

## 1.4 Response to children doing other types of work

A few countries have tailored responses to children doing particular types of work that are somehow *special* but not hazardous in a usual way, work that cannot be categorized entirely within a single economic branch.

### Artistic performances

[C138, Art. 8]

The general approach is that children under the minimum age should not be engaged in professional artistic performances. However, the perceived need for children to take part in artistic endeavours, ranging from traditional cultural events to highly commercial live and recorded entertainment and advertising, has led to exceptions being made to this general rule, typically providing that certain conditions be met where children engage in such performances.

### Definition of artistic performances

(1) [ESP 1, § 2(1)]  
(2) [PHL 6, § 12(2)]  
(3) [LTU 1, § 58(2)]

There is not usually much specificity about the nature of the work involved in order for it to be categorized as an artistic performance. Reference is sometimes made to *public* performances (1), although this most likely also applies to performances that are closed to the public, such as a film production. Infrequently, a broad picture is painted, as in “public entertainment or information through cinema, theatre, radio, television or other forms of media” (2). A more limited formulation may refer to “cultural and art festivities” (3), although it is difficult to imagine that rules for these exceptions are not applied to all types of work by children in any way related to artistic performances (e.g. in an educational or purely leisure context).

### Limits and conditions on participation in artistic performances

[C138, Art. 8(1)]  
[PHL 6, § 12(2)]  
[AUT 1, § 6(1)]  
[MYS 1, § 7(1) & (2)]  
[BRA 3, § 149]  
[ALB 2, § 102]  
[CHL 1, § 16]  
[ISL 2, §§ 59–60]  
[ESP 1, § 2(1)]

As mentioned, modern practice in policy and legislation sets limits or conditions on children exceptionally taking part in artistic performances. ILO Convention No. 138 allows for *permits to be granted in individual cases* to enable children under the basic national minimum age to participate in artistic performances. Countries broadly respect this provision, placing protective limits where the child is to do this type of work.



These conditions may cover:

### **The nature of the work**

- [GBR 7, § 38] ■ setting a minimum age of 14, unless the work involves an acting or dancing role that cannot be filled by someone older;
- [GBR 7, § 38] ■ specifying that the part be wholly or mainly of a musical character.

### **Administrative matters**

- [PHL 6, § 12(2)]  
[ESP 1, § 2(1)] ■ requiring that an employment contract be concluded by the child's parents, with the express agreement of the child concerned, if possible, and the approval of the department responsible for labour;
- [CHN 1, § 13] ■ placing no limits on a child's participation, other than the necessity of parental consent.

### **Health and safety**

- [GBR 7, § 37(4)] ■ requiring that the local authority be satisfied that the child is fit, that his or her health is secured and that kind treatment is assured;
- [PHL 6, § 12(2)(i)] ■ requiring that the employer ensure the protection of the health, safety, morals and normal development of the child;
- [ESP 1, § 2(1)] ■ stating that the authorities may only grant permission for the child to undertake such work if it does not endanger physical health.

### **Education**

- [GBR 7, § 38]  
[ESP 1, § 2(1)] ■ stipulating that the child's education not suffer;
- [PHL 6, § 12(2)(iii)] ■ requiring that the employer formulate and implement, subject to the approval and supervision of the competent authorities, a continuing programme for training and skills acquisition of the child.

### **Other conditions**

- [PHL 6, § 12(2)(ii)] ■ requiring that the employer institute measures to prevent exploitation of or discrimination against the child, taking into account the system and level of remuneration and the duration and arrangement of working time.

[LTU 1, § 58(2)] In some cases, children, with the written consent of a parent or guardian and a doctor's permission, are authorized to engage *without a limit of minimum age* in cultural and artistic festivities or other activities that do not have a detrimental impact on their health, morals or studies. Perhaps the intention here is to avoid designating these activities as "work", while recognizing that certain localized cultural practices could be seen as work and/or could, without safeguards, have a negative influence on the children concerned.

2.

## Response to the worst forms of child labour





The international community's response to children engaging in the worst forms of child labour was first to reach a consensus on what those worst forms were and then to indicate what needed to be done as a priority to eliminate them. The result was the ILO's Worst Forms of Child Labour Convention (No. 182), adopted in 1999. At the national level, States have begun to take policy and legislative action to address the worst forms of child labour. The first response has been to build upon earlier approaches, that is, to identify what constitutes the worst types of work and, typically, to set absolute prohibitions on that work being done by persons under the age of 18. But modern practice goes beyond a simple legislative response, most notably in the development of time-bound programmes whose aim is the *elimination* of the worst forms of child labour.

This chapter deals with those worst forms of child labour, as set forth in the Convention No. 182, starting with what has come to be known as "hazardous work" – also covered by the ILO's Minimum Age Convention (No. 138), adopted in 1973.

### Defining the worst forms of child labour

The worst forms of child labour have been defined at the international level in ILO Convention No. 182. They are defined at the international level, although one form – "work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children", usually referred to as "hazardous work" – is subject to elaboration and clarification nationally. The other – *unconditional* – worst forms of child labour are:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties.

Source: *Worst Forms of Child Labour Convention, 1999 (No. 182), Article 3*

## 2.1 Response to hazardous work

[C138, Art. 3(1)] Countries' first line of response to "hazardous work" has been based to a large extent on the provisions of Convention No. 138. This section thus takes a look at how countries have defined and set a minimum age in line with the Convention's requirement that "admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years".

[C138, Art. 3(2) & (3)]  
[C182, Art. 4] Conventions Nos. 138 and 182 leave States to determine in their national laws or regulations the types of employment or work that should be considered "hazardous", and Convention No. 138 allows for the limited possibility of young persons being authorized to do such work from the age of 16 *on condition* "that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity".

Now that Convention No. 182 has defined "hazardous work" as one of the worst forms of child labour, to be tackled urgently, States are going significantly further in elaborating policies and legislation and developing institutional responses to hazardous work.

### Definition of hazardous work

(1) [FRA 2,  
§ R. 234-11]  
(2) [FRA 2,  
§ R. 234-14]  
[CHE 1, § 48]

In some cases, national policy or legislation simply states that a certain type of work is prohibited to persons under a particular age, often 18 years, without specifying that the work is hazardous or likely to cause harm to their health or morals. However, it is clear from the types of work involved that their hazardous or harmful nature is the basis for the prohibition (1). Further provisions place additional prohibitions on particular types of work, although the age is set at less than 18 years (2).

Other examples of defining hazardous work include:

#### *Leaving the definition to the administrative authorities*

[KHM 1, § 177(2)]

- In Cambodia, the types of employment or work which by their nature could be hazardous to an adolescent's health, safety or morals are determined by the Ministry of Labour in consultation with a tripartite labour advisory committee.

#### *Defining hazardous work by category*

[FRA 2, § R.234-11]  
[JPN 1, § 62]  
[NZL 3, § 56]

- all types of work, often specifically named, with and involving machinery;

[JPN 1, § 62(2)]

- work involving the handling of poisons;

[JPN 1, § 62(2)]

- work involving the handling of explosives or combustible or inflammable substances;

[FRA 2, § R. 234-15]

- work involving steam apparatus.

- (1) [JPN 2, § 8]
- (2) [GRC 1, § 1(2)]
- (3) [EGY 3, § 1]
- (4) [JPN 4, § 74]

Examples can be found where regulations list all kinds of prohibited work in detail: 46 items (1); 149 items, categorized (2); 44 items (3); and even all work in a specific sector, such as merchant shipping (4).

### **Defining hazardous work by risk**

- [GBR 8, § 19(2)(c)]  
[CHN 2, § 3] ■ work involving harmful exposure to radiation;
- [JPN 1, § 62(2)]  
[CHN 2, § 3] ■ work with exposure to dust;
- [JPN 1, § 62(2)] ■ work with exposure to gas;
- [JPN 1, § 62(2)] ■ work places where high pressure is used;
- [GBR 8, § 19(2)(e)(i)]  
[CHN 2, § 3]  
[ISL 2, § 62] ■ work with risk to health from extreme heat or cold;
- [GBR 8, § 19(2)(e)(ii)] ■ work with risk to health from noise;
- [GBR 8, § 19(2)(e)(iii)]  
[CHE 1, § 48]  
[ISL 2, § 62] ■ work with risk to health from vibration;
- (1) [CHN 3, § 64]  
(2) [GBR 8, § 19(2)(b)] ■ work involving harmful exposure to agents which are toxic (1) or carcinogenic (2);
- [GBR 8, § 19(2)(b)] ■ work with exposure to agents that “cause heritable genetic damage or harm to the unborn child”;
- [NZL 3, § 55] ■ work involving lifting weights likely to be injurious to health.

### **Defining hazardous work by its characteristics**

- [GBR 9, § 135(2)] ■ any occupation likely to be injurious to life, limb or health, regard being had to physical condition;
- (1) [ISL 2, § 62]  
[BFA 2, § 1]  
(2) [GBR 8, § 19(2)(a)] ■ work beyond the physical (1) or psychological (2) capacity of the person involved;
- [MYS 1, § 2(5)]  
[CHE 1, § 48]  
[CHN 3, § 64] ■ work underground;
- [NZL 3, § 58]  
[BRB 1, §§ 8(1) and 13]  
[DZA 1, § 14] ■ work at night or at specific hours during the night;
- [JPN 1, § 62(2)]  
[BRB 1, § 8(1)] ■ work in places that are dangerous or injurious to safety, health, welfare or morals;
- [NZL 3, § 57] ■ work involving driving or riding on any heavy vehicle, including tractors;
- [CHE 1, § 49(a)(2)] ■ work involving the service of customers in entertainment establishments, such as night clubs, dance halls, discotheques and bars;
- [ISL 2, § 62] ■ work involving “a risk of accidents which it can be assumed children and teenagers could have difficulty in identifying or avoiding due to their lack of awareness or lack of experience or training”;
- [ISL 3, § 1] ■ work in places licensed to sell tobacco products.

## Consultation with the social partners

[C138, Art. 3(2) & (3)] Both ILO Conventions Nos. 138 and 182 require that governments consult employers' and workers' representatives in determining the types of hazardous work and fixing the minimum age of 18 for such work. Many countries, following ratification of one or other of these Conventions, have shown a willingness to follow the international standard.

(1) [BRA 1] In some countries, tripartite consultation can take place either *ad hoc* (1)  
(2) [TUN 1, § 58] or in accordance with legislative requirements (2).

(1) [FRA 1, §§ L. 200-4 & L. 231-3] There can be a broad requirement in national legislation for consultation on  
(2) [BRB 1, § 8(3)] any provisions dealing with young workers (1). Limitations may still be set on what the social partners can agree to, for example, a minimum number of hours of rest should there be agreement on young persons working during the night (2).

## Gender-specific hazardous work

Certain countries target specific sectors or types of hazardous work with reference to gender. Examples include:

[JPN 2, § 7] ■ setting lower limits for the weights girls are permitted to handle than those for boys;

[URY 2, §§ 241 & 244] ■ allowing girls to work in the theatre only if they have attained the age of 18, while boys can take on such work from 16 years of age, and prohibiting unmarried girls below 18 years of age from working in occupations performed in the streets or public squares, while boys and married girls of at least 16 years of age may do so;

[ARG 2, § 11] ■ maintaining a list of hazardous work applicable to women and both boys and girls under 18.

[CRI 1, § 87] In many countries, women, along with boys and girls under the age of 18,  
[CHL 2, § 229] are protected from dangerous work, such as mining or night work.  
[URY 3, § 32] Generally speaking, however, following the lead of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the tendency is to separate protective provisions for adult women – which should be based only on the need for maternity protection – from those for children under 18, both girls and boys.

## Prohibiting the use of children in hazardous work

Once work is defined as being hazardous, modern practice *prohibits* young persons – less than 18 years if the international standard is being followed – from doing the work. The manner in which the prohibition is set out differs from country to country, although there seem to be four main styles:

The first style, exemplified in the French legal tradition, prohibits the employment of underage persons in specific types of hazardous work, including:

- [FRA 1, § 234-5] ■ employing an apprentice to do work that is harmful to health or beyond his or her capabilities;
- [FRA 1, § 211-11] ■ engaging underage children in dangerous stunts or other activities that endanger their lives, health or morality;
- [FRA 2, R. 234-11] ■ using underage children in activities involving machinery that is specifically listed;
- [FRA 2, R. 234–15] ■ engaging underage persons in the use of steam pressurized vessels;  
■ work with liquefied gas, patching machines, combustible liquids, etc.  
The second style phrases the prohibition more broadly, applying it, for example, to:
  - work that is harmful to health and development, dangerous or immoral;
  - underground work (1) or work in mines (2);
  - work at night;
  - work in places that sell alcoholic beverages (1) or tobacco products (2).
- [BWA 1, § 110(1)]  
[KHM 1, § 177(2)]  
(1) [BWA 1, § 108]  
(2) [CHN 4, § 64]  
[BWA 1, § 109]  
(1) [ISL 4, § 58]  
(2) [ISL 3, § 1]  
[NIC 1, § 74] The third style describes the class of hazardous work. For example, in Nicaragua, adolescents are prohibited from doing “any type of work performed in unhealthy places or which poses a risk to life, health or physical, psychological or moral integrity, such as work in mines, underground, as scavengers, in places of nighttime entertainment [or] involving the handling of dangerous objects or toxic substances”.
- [BRB 1, § 8(1)] The fourth style, which follows the international standard but without specifying the types of work concerned, simply prohibits the employment of underage persons in any work that by its nature or the circumstances under which it is done is likely to cause injury to their health, safety or morals.
- [MYS 1, § 2] One other approach was found in Malaysia, where the types of work children and young persons – separately defined – *may undertake* are specified, while engagement *in all others* is prohibited, giving authority to the responsible Minister to add other types of work to the list of permitted work, provided they are not dangerous to life, limb, health or morals.

## Action to address hazardous work by children

Since an underage worker found doing hazardous work is typically not penalized, modern practice makes the *user* of children in hazardous work liable to action and penalty.

Modern practice permits *administrative action* to be taken where children are engaged in work designated as hazardous or, more frequently, where children are engaged in work that is harmful to their health.

- [TUR 4, § 6] Turkey has explicitly legislated that a child found doing heavy or dangerous work contrary to the provisions of the law should be stopped from performing such work.



- [BFA 5, § 6] In Burkina Faso, where an exception has been made allowing the employment of a child in a particular type of work, the factory inspector can revoke that authorization if it is found that the work actually being performed by the child threatens his or her health, safety or morals.
- [FRA 1, § L. 117-5-1] In France, a contract of apprenticeship can be suspended if the health or physical or moral integrity of the apprentice is jeopardized, the employer remaining bound to pay the apprentice's remuneration.
- (1) [NZL 4]  
(2) [BRA 1]  
[GBR 10, § NA] In New Zealand, if a child's employment activity is detrimental to his or her well-being, a child welfare agency and the police are authorized to remove the child or young person under warrant, and the Family Court may place the child in the custody of the Director General of the child welfare agency (1). Similar provisions are found in Brazil and the United Kingdom (2).
- [BRA 1] In Brazil, if the work is proved to be harmful to a minor, the competent authorities will require that the minor abandon the work, and the *employer will be required* to provide the minor with other work.
- [EST 1, § 110(1)] In Estonia, a parent, guardian, curator or labour inspector may demand termination of an employment contract entered into with a minor if the work endangers the health, morality or education of the minor.
- [SAU 3] In Saudi Arabia, the owner of a camel ridden in a race by a jockey under 18 years of age will be disqualified.
- [MNG 1, § 25(5)] In Mongolia, where the violation of the rights of the child is not otherwise a criminal offence, an administrative penalty is imposed by the decision of a governor or other administrative official where an individual has engaged a child in certain forms of work harmful to his or her health.
- [AUT 1, § 31] In at least one country, Austria, employers who are repeatedly punished for infringing provisions concerning children doing hazardous work may be banned by the responsible authorities from employing young persons for a limited period or permanently.  
  
Moreover, modern practice imposes *penal sanctions* for the use of child labour in hazardous work.
- [NPL 5, § 19(2)]  
[SWZ 1, § 109] Policy in most countries is to provide for both a fine and imprisonment for those convicted of using children in hazardous work.
- [PHL 6, § 16(b)] In the Philippines, any person or employer of a subcontractor who employs, or who facilitates the employment of, a child in hazardous work is liable to a fine or imprisonment of not less than twelve years and one day to twenty years, or both at the discretion of the court.
- [FRA 1, L. 117-5-1] In France, the authorities can suspend a contract of apprenticeship if it is found that the apprentice's working conditions pose a serious risk to health or physical or moral integrity. Even when the contract is suspended, the employer remains bound to pay remuneration to the apprentice, along with any past remuneration owed.
- [PAK 1, § 14] In Pakistan, the period of imprisonment for repeat offenders of laws on the use of children in hazardous work is extended from a possible one-year term for the first offence to a minimum of six months and a maximum of two years for subsequent offences.

(1) [THA 1, § 144]  
(2) [CRI 1, § 87]

In some countries, the sanctions for the use of children in hazardous work depend on the consequences of that use. Thailand, for example, increases the penalties applied to a user of children labour in hazardous work where harm has actually come to the child (1). In Costa Rica, in addition to a fine and penal sanctions, the employer must pay three months' salary to an injured young worker (2).

(1) [ISL 5, § 99]  
(2) [GUY 2, § 23(a)]

Lastly, some countries have laws which set penalties, essentially for child endangerment, making persons liable to fines and/or imprisonment for such things as inflicting punishment, threats or menaces upon a child that may be expected to harm the child physically or mentally (1) or wilfully ill-treating, neglecting, abandoning or exposing a child in a manner likely to cause unnecessary suffering or injury (2).

## Setting conditions for children doing some forms of hazardous work

[C138, Art. 3(3)]

Given that Convention No. 138 allows for the possibility of persons from age 16 engaging in hazardous work under strictly protective conditions, some countries permit persons aged 16 and over to do hazardous work, provided that, in accordance with international standards, *measures are taken to ensure the protection of the child's health, safety and morals*.

[TUN 1, § 58]

Broad power can be given to an administrative authority – the Minister of Labour or of Social Welfare or the labour inspectorate – to make regulations in conformity with the requirements of Convention No. 138. These may, after consultation with the relevant bodies or organizations, authorize employment from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate instruction in the corresponding area of activity or, in one case, with the advice of the worker health inspection unit.

[JPN 2, § 34-3(2)]

In Japan, the employer is given the responsibility of taking the necessary measures to prevent harm to vocational trainees under the age of 18 years doing otherwise hazardous work.

[KHM 1, § 174]

In Cambodia, the competent national labour authorities determine under which special conditions persons between 16 and 18 years of age can undertake underground work.

[KHM 1, § 177(3)]

Some countries require consultation with the social partners to determine the conditions under which workers below the age of 18 can do hazardous work, and authorization is only given on the understanding that safeguards are put in place to protect the young persons' health, safety and morals.

[C138, Art. 3(3)]

Some countries follow the international standard whereby persons 16 years and over are permitted to do hazardous work on condition that they have received “adequate specific instruction or vocational training in the relevant branch of activity” before taking up the work. Examples include:



- [ISL 6, § 6]  
[HRV 1, § 21.3]

- requiring that the employer provide satisfactory training and guidance to young workers in order to ensure that the work is not hazardous to their safety or health;
- (1) [CAN 3, § 4.1]  
(2) [CAN 4, § 3.2.1]  
(3) [SWE 1]

- requiring that young persons only engage in a particular form of hazardous work if they are vocational trainees in that work, for example X-ray radiation (1), mining (2) or other specified occupations (3);
- [GBR 8, § 19(3)]

- requiring that the work be necessary for the young person's training, that it be supervised by a competent person and that the risk be reduced to the lowest level that is reasonably practicable;
- [AUT 1, § 24(2) & (3)]

- requiring that particular periods be established at regular intervals for the training of young persons in the handling of dangerous substances or machines and in existing safety precautions before they undertake specified hazardous work;
- [GUY 3, § 9]  
[LKA 3, § 25]  
[MUS 1, § 28]

- requiring that the young person doing the work be specifically instructed in the dangers connected with that work, for example the use of machinery;
- [SYR 3, § 4]

- requiring that the work be in connection with training institutions that have internal regulations to monitor and protect young persons and that the young workers provide certificates to the competent authorities stating that they have the health and physical ability to undertake the tasks assigned to them;
- [SVN 1, § 8]

- requiring that the young worker be a vocational trainee who is accompanied by a specialized safety manager when doing work which could expose him or her to cancerous and/or mutagenic substances.

## Practical action with respect to hazardous work

Some countries have taken practical steps to respond to children doing types of work that are likely to jeopardize their health, safety or morals.

### Thailand: Broad action to prevent entry to the worst forms of child labour

The National Plan of Action for the Elimination of the Worst Forms of Child Labour (2004–2009) aims to decrease premature entrance to the labour market by both Thai and non-Thai children and to empower them to protect themselves from becoming engaged in child labour and its worst forms.

The target groups under the Plan of Action are children already engaged in the worst forms of child labour and children identified as vulnerable to entry into the worst forms of child labour. In addition, preventive strategies target employers, government officials and non-government personnel responsible for the implementation of labour and related laws, as well as parents.

So far under the Plan of Action, the following has been achieved:

- measures have been developed for the elimination of child labour in the production and trafficking of drugs, the sale and trafficking of children into slavery, and the use or procurement of children for prostitution and the production of pornography or pornographic performances;
- types of hazardous work engaged in by child labourers have been identified, and the involvement of children in these types of work has been reduced through implementation of the Plan of Action in consultation with employers' and employees' organizations;
- databases on the worst forms of child labour have been developed by agencies responsible for law enforcement, criminal justice and labour protection.

*Source: National Plan of Action for the Elimination of the Worst Forms of Child Labour (2004–2009)*

[NER 2, § 6]

Typically, national plans of action to eliminate child labour target hazardous work. As the Niger example illustrates, a multisectoral strategy at the national level may include the following aims:

- the reinforcement of national capacities
  - signature of a memorandum of understanding between the Government and the ILO;
  - creation of a national management committee responsible for action to combat child labour.
- familiarizing various actors with the issue of child labour and providing them with information with a view to:
  - publicizing Convention No. 182 on the occasion of the 1 May celebrations;
  - launching training and publicity campaigns against child prostitution in specific geographic areas;

- organizing an annual celebration of the World Day Against Child Labour (12 June).
- taking direct action through the withdrawal of children from work and their rehabilitation, such as:
  - preventing children from working at the slaughterhouse in Niamey;
  - contributing to the eradication of hazardous work by children in the remote villages of the urban district of Tillabéri;
  - contributing to the elimination of the exploitation of the street children of Birni N’Konni;
  - preventing children from employment as gold washers in the mines and improving their working conditions.

[NIC 4, p. 63]

Nicaragua’s National Plan of Action adopts a slightly different angle. Basing itself on ILO Conventions Nos. 138 and 182 and the UN Convention on the Rights of the Child, it aims gradually to achieve the following outcomes:

- formulation of a national multisectoral policy aimed at the prevention and eradication of child labour and the protection of adolescent workers, within the framework of the Code of Childhood and Adolescence;
- giving special priority to eliminating the worst forms of child labour at the local level and those forms of work that are detrimental to the healthy development of boys, girls and adolescents and to the fulfilment of their rights enshrined in the Code of Childhood and Adolescence;
- prevention and eradication of child labour by focusing on the health, nutrition and education of boys, girls and families within their communities, in accordance with national and international principles and regulations that favour children’s full development, such as the Code of Childhood and Adolescence;
- protection of working adolescents in their communities by focusing on their health and educational needs as expressed by them, by keeping them out of situations that can affect their moral, social, psychological and physical development and by promoting their rights, in accordance with national and international principles, laws and covenants;
- making the public aware of the effects of child labour, with emphasis on girls and young women;
- motivating local authorities to prioritize child labour within agendas for local development;
- harmonizing and promoting international cooperation on the prevention and eradication of child labour and on the protection of working adolescents.

## Action in specific sectors

- [KHM 2] Some countries, such as Cambodia, target *particular hazardous sectors* for practical action, such as salt production, rubber plantations and the fishing/shrimp-processing industries. Furthermore, practical action can include using the incidence of child labour as a monitoring indicator for the National Poverty Reduction Strategy.
- [NIC 2, § 133]  
[KHM 1, § 174] Some countries single out mining as a sector involving hazardous work, in which children should not be working.
- [PHL 3] In the Philippines, agreements to work towards the elimination of hazardous child labour have been concluded in the tobacco-growing and fishing industries.
- [BRA 1] Some countries make it possible for enterprises in certain industrial sectors – some of which involve hazardous work – to enter into “covenants”, binding themselves to act against child labour. In Brazil, enterprises that have done so include citrus fruit exporters, footwear manufacturers, supermarkets and the Brazilian Petroleum Corporation.
- [PHL 2] One very practical approach adopted in the Philippines is to “make the invisible visible” by *registering and listing child labourers* in a database. Analysis of the information in the database enables implementers of the National Plan of Action against Child Labour to identify particular child labourers in specific areas, their immediate needs or concerns and the appropriate services and interventions necessary to improve the quality of life of these working children, their families and possibly their communities.
- [DNK 2] In Denmark, *documentary and personal guidance* is given to employers, at the workplace, to ensure the practical application of rules on the employment of young persons and in particular to prevent the employment of underage persons in hazardous work.

## 2.2 Response to forms of slavery and similar practices

[C182, Art. 3(a)]

The worst forms of child labour in the world today include slavery – ownership of children and exploitation of their labour – and similar practices. The ILO’s Convention No. 182 specifically acknowledges this and includes in its definition of the worst forms of child labour slavery and similar practices, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict. The modern response to these types of child labour goes beyond a mere broad prohibition and involves carefully defining the practices to be fought, prohibiting them clearly and comprehensively, acting against those contravening these prohibitions, and taking practical action to ensure the prohibition and elimination of the practices that fall under these worst forms of child labour. It should be underlined that legislative action against such practices commonly falls within the penal law system, rather than labour laws and regulations.

### Defining, prohibiting and otherwise responding to slavery and similar practices

The outlawing and prohibition of slavery is common in countries around the world. Modern practice prohibits slavery in *all its forms*, including the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict.

- (1) [CZE 1, § 232]
- (2) [SGP 1, §§ 370 & 371]
- (3) [FRA 3, §§ 225-13 & 225-14]

While some countries prohibit and penalize the act of *holding* a person in slavery or of *depriving* a person of liberty (1) or of *trading* in persons (2), some also have measures specifically targeting those *using* persons deprived of liberty for labour or service. Thus, in France, obtaining unpaid labour or services, or labour or services of a value without relation to the actual value of the labour or services, from a person obviously vulnerable or dependent is punishable by a fine and imprisonment (3). These penalties are increased when the victim is a minor.

- (1) [MYS 2, § 370]
- (2) [SYC 1, § 249]
- (3) [JOR 1, § 5]
- (4) [NIC 1, § 72]

Usually, the definition and prohibition of slavery appear together, setting out at the same time what it is that is outlawed. In some cases, for example in Malaysia, the prohibition is framed within the context of the sale of an enslaved person, that is, the buying or selling of slaves is expressly prohibited (1). The term “slave” may not actually be defined (2). Nor may the prohibition of the selling of a person necessarily specify children, and a prohibition may also link the selling/buying of the person to the use to which the person in question will be put, that is, as a slave (3). In other cases, the prohibition of sale is explicitly stated with regard to a child (4). If there is only a declaration in the constitution that “slavery is prohibited”, further legislation on actual sanctions would be indispensable.

## The sale of children

- (1) [BRA 3, § 238]  
(2) [MUS 2, § 15] In Brazil, it is an offence for a parent or guardian to deliver a child under his or her care to a third party in exchange for payment or reward or for a person to offer or effect the payment or reward (1). Some countries refer to taking part in the actual transaction aimed at the trafficking of a child in their response to trafficking (2).
- (1) [DOM 1, § 25]  
(2) [MYS 3, § 48(1) & (2)] The Dominican Republic has enacted legislation specifically addressing the sale of children for their sexual exploitation, sale or use of their organs, forced labour or for any other purpose injurious to their personal dignity (1). Malaysia has made any transaction the object of which is “to transfer or confer, wholly or partly, temporarily or permanently, the possession, custody or control of a child for any valuable consideration” an offence punishable by a fine and/or imprisonment (2). Possession of a child who has been the subject of such a transaction is likewise an offence.
- [SVN 2, § 387(a)]  
[BRA 1] [GRC 3] The consequences of selling children are usually severe. In some cases, a basic prohibited act is established and applicable to all persons, with subsequent provisions introducing adaptations to the act or the penalty in situations where children or minors are involved. *Penal sanctions* are typically used in connection with the sale of children, the offence being so grave.  
Modern policy and legislative practice imposes criminal sanctions of *finis and imprisonment* for the sale of children.
- (1) [CAN 5, § 84]  
(2) [MYS 2, § 370]  
(3) [MRT 2, § 5] Possible prison sentences range from not more than six months in one country (1) to up to seven years in another (2) and ten years in a third (3).
- [NER 3, §§ 269 & 270] In some countries, such as Niger, one set of penalties is applied for selling adults, and another, harsher set, is applied for selling children. Furthermore, the death penalty may be imposed on persons convicted of selling several children.
- [JPN 5, §§ 34(7) & 60] In Japan, a penalty of imprisonment of not more than one year or a fine may be imposed for handing over a child to a person who intends to abduct, sell or trade the child.
- [BGR 1, § 216(a)  
(1) & (3)] In Bulgaria, a person who in return for compensation entrusts another person with custody of a child is liable to imprisonment not exceeding three years. The offender is liable to a prison term of three to ten years if grievous bodily harm, death or “any other serious consequence” is caused by his or her actions.
- [MYS 2, § 371] Imprisonment for habitually dealing in slaves in Malaysia may extend to 20 years.
- [MRT 2, § 5] In Mauritania, penalties are increased where those involved acted in an organized criminal group.



## Trafficking of children for labour exploitation

Trafficking in human beings, be they adults or children, is a phenomenon increasingly addressed under international law.

[Palermo Protocol,  
Art. 3(a)]

An internationally accepted definition is given in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), supplementing the UN Convention Against Transnational Organized Crime. According to the Protocol, trafficking in human beings is:

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

[Palermo Protocol,  
Art. 3(c) and (d)]

The Palermo Protocol specifically addresses the trafficking of children, stating that the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is considered “trafficking in persons” even if it *does not involve any of the means* set out as being applicable where adults are involved. A child is defined as being “any person under eighteen years of age”. Thus, where a child under 18 is involved, trafficking in persons has occurred where he or she has been *recruited, transported, transferred, harboured or received by persons for the purpose of exploitation*, as defined.

[PHL 7, § 3]  
[MRT 2, § 1]

The Palermo Protocol has helped to shape States’ response to the trafficking of children. Many have relied on the Protocol to draft appropriate legislation.

[GBR 12, § 145]  
[GBR 11, § 57]

In some instances, trafficking with a view to sexual exploitation is the main or exclusive focus of a response, distinct from measures against trafficking for other purposes. Another frequent occurrence is where the legislation covers the trafficking of women and girls, but not boys. These shortcomings need to be addressed, at least to cover the trafficking of boys and girls under 18 years for the purposes of sexual and labour exploitation.

(1) [NZL 5, § 98(D)(1)]  
(2) [MLI 1, § 63]  
(3) [BRB 4, § 35(3)]  
(4) [DNK 1, § 262(a)]  
(5) [BRA 3, § 239]

The location of the act is sometimes determinative. For example, arranging to traffic persons in other States (1) or inside or outside of the country concerned (2) is explicitly prohibited in some jurisdictions. In others, the response is limited to the removal of persons from their own jurisdiction for the purposes of employment elsewhere (3). Others make no reference at all to the location of the act (4). In some cases, a response is aimed specifically at the practice of sending children abroad “without observance of the legal formalities or with the purpose of obtaining profit” (5).

- [IRL 4, § 7] Ireland expressly allows the authorities to search premises and persons found at premises suspected of being sites involved in child trafficking, prostitution or pornography.  
The consequences for persons caught trafficking are usually severe. Penalties are almost invariably increased where children are the victims of the trafficking.  
*Administrative sanctions* are not typically relied on as a primary sanction in cases of trafficking either in adults or in children. Some important exceptions can be cited:
- [GBR 12, § 146(4)] In the United Kingdom, conviction on a child trafficking offence with a penalty of imprisonment or detention of 12 months or more attracts a further automatic penalty of a “disqualification order” prohibiting the trafficker from work with children in the future, whether in a paid or unpaid capacity. Breach of such a disqualification order is a criminal offence in itself.
- [CHN 12, § 18] In China, conviction for trafficking in persons can lead to suspension of the offender’s political rights and a prohibition on that person exercising public office for a period of time.
- [BLR 2, § 181] In Belarus, the property of the trafficker can be seized.  
Modern policy and legislative responses usually involve the imposition of *fines and imprisonment* for trafficking in children.
- [CHN 12, § 7] In China (Macau Special Administrative Region), trafficking in persons for the purpose of prostitution carries a penalty of between 2 and 8 years in prison, even where the acts constituting the offence are committed in different countries or territories. These penalties are increased by one-third if the victim is under 18 years of age. If the victim is under 14 years of age, the penalty ranges from between 5 and 15 years’ imprisonment.
- [NZL 5, § 98(D)(2) & (E)(1)(b)] In New Zealand, conviction for trafficking in persons carries a penalty of imprisonment for a term not exceeding 20 years and/or a fine not exceeding NZ\$500,000. In considering the sanction, the court is instructed to take the age of the victim into account, in particular whether the victim was under 18 years of age.
- [CZE 1, § 216a] In the Czech Republic, a penalty of imprisonment of up to three years can be imposed for child trafficking. This penalty is increased to two to eight years’ imprisonment where the act is committed as part of an organized group or the offender acquires substantial benefit from the act. The penalty is also increased to three to ten years if the trafficker causes severe injury to health, death or some other equally serious consequence by an act of trafficking.
- [CHN 13, § 240] The law in China sets specific penalties for abduction or trafficking in women or children, starting with five to ten years’ imprisonment plus a fine. These sanctions can be increased – penalties of from ten years to life imprisonment and confiscation of property – where the following aggravating circumstances are involved:

- organized rings engaging in abducting and trafficking women or children;
- abducting and trafficking more than three women and/or children;
- raping abducted women;
- seducing, tricking or forcing abducted women into prostitution, or selling abducted women to others who in turn force them into prostitution;
- kidnapping women or children using force, coercion or narcotics for the purpose of selling them;
- stealing or robbing infants or babies for the purpose of selling them;
- causing serious injury or death to abducted women or children or their family members or other grave consequences;
- selling abducted women or children outside the country.

### Using penalties for combating child labour

In the Philippines, fines and confiscated proceeds and properties imposed for infringements of the Anti-Trafficking in Persons Act of 2003 (Republic Act No. 9208) are paid into a trust fund administered and managed by the Inter-Agency Council Against Trafficking. The fund is used exclusively for programmes to prevent trafficking and to protect, rehabilitate and reintegrate trafficked persons into society. Some of the programmes specified in the Act are:

- providing a number of mandatory services specified in the Act, including emergency shelter and housing, counselling, free legal services, medical or psychological services, livelihood and skills training, and education assistance for trafficked children;
- sponsoring a national research programme on trafficking and establishing a data collection system for monitoring and evaluation purposes;
- providing the necessary technical and material support services to appropriate government agencies and NGOs;
- sponsoring conferences and seminars to provide a means for consensus building amongst the public, academics, government, NGOs and international organizations;
- promoting information and education campaigns on trafficking.

A similar arrangement is in place for infringements committed under the Act on the Special Protection of Children Against Child Abuse, Exploitation and Discrimination (Republic Act No. 9231 of 2003). In this case, the trust fund is administered by the Department of Labour and Employment. The fund is disbursed exclusively for the needs of working children who are victims of violations under the Act, including rehabilitation and reintegration into society and programmes and projects that aim to prevent child labour.

*Sources: Republic Act No. 9208 of 2003 (Anti-Trafficking in Persons Act); Republic Act No. 9231 of 2003 (Act on the Special Protection of Children Against Child Abuse, Exploitation and Discrimination)*

## Children working in debt bondage

Many countries have responded in policy and law to debt bondage practices. The typical response is a general prohibition of debt bondage and does not specifically refer to child debt bondage. Such prohibitions, however, often fail to deal with the intergenerational aspect of debt bondage – the automatic passing of a debt from parent to child – which effectively holds children in a continuing state of forced labour.

[PAK 2, § 2(e)] Pakistan appears to address the issue in its definition of the “bonded labour system”. There, the transfer first of a debt obligation into a work obligation and then from one family member to other family members is considered, in addition to other more direct practices, to be bonded labour contrary to the law.

[BGD 2, §§ 2–6]  
[PAK 3, §§ 3–6] Bangladesh and Pakistan recognize another practice particular to child bonded labour: the “pledging” of child labour. Based on legislation from 1933, both countries prohibit and establish penalties for the pledging by a parent or guardian of a child’s labour in exchange for payment or benefit received. An agreement to pledge the labour of a person under the age of 15 years is void, fines are imposed for those who make such a pledging agreement, and the highest fines are established for those who permit the child to actually be employed in premises under his or her control.

[BRA 1] There is another type of debt labour practice, whereby workers are coerced into purchasing goods from a predetermined establishment to keep the worker from leaving the working place on account of the accumulated debt. Brazil has made this practice unlawful and subject to penal sanction, and the sanctions of fine and imprisonment are increased by one-sixth to one-third if the victim is under the age of 18.

[BRA 1] The *consequences for users* of children as bonded labourers are usually severe. Although most penalties are aimed generally at users of any kind of bonded labour, without express reference to children, on occasion specific consequences for the use of children in bonded labour supplement those that may be imposed on persons exploiting bonded labour generally. In Brazil, the penalty for exploiting a worker bound by indebtedness is one to two years’ imprisonment and a fine, which is increased by one-sixth to one-third if the victim is under the age of 18.

If bonded labour is not mentioned by name, recourse may be had to national laws setting penalties for the exploitation of forced labour. Examples of those countries that have specific penalties for bonded labour include:

[GHA 1, § 314] ■ Ghana, where bonded labour is a second degree felony, punishable by ten years’ imprisonment.

[BGD 2, §§ 4–6] ■ Bangladesh, where conviction for the pledging of child labour carries a 50 taka (0.75 US cents) fine for a parent or guardian, making an agreement with a parent or guardian to this effect carries a 200 taka fine, and employing a child whose labour has been pledged carries a 200 taka fine.

- [PAK 2, § 11] ■ Pakistan, where persons convicted of compelling another to render bonded labour are punishable with imprisonment of not less than two years and no more than five years or with a fine of not less than 50,000 rupees or both.
- [PHL 9, § 273] In the Philippines, a penalty of imprisonment of from six months to four years and two months and a fine not exceeding 500 pesos is imposed on anyone who, under the pretext of reimbursing himself or herself of a debt incurred by an ascendant, guardian or person entrusted with the custody of a minor, against the minor's will, retains the latter in his or her service.

## Serfdom

- (1) [NZL 5, § 98(2)]  
 (2) [IDN 4, Chap. II, B(1)]  
 [PHL 6, § 12(D)(1)]  
 [COD 1, § 3(a)]  
 [HND 1, § 10]
- Rarely is serfdom specifically defined in modern practice, although an example does exist of an explicit definition given in national law (1). In the context of responses to child labour, the term typically appears as part of a repetition of the obligations found in Convention No. 182 to eliminate all forms of slavery, including serfdom (2).
- [ECU 2, § 70] In Ecuador, serfdom is included as one of the exploitative elements of the crime of trafficking in children.
- (1) [NPL 3, § 20(1)]  
 (2) [NGA 2, § 30(2)(b)]
- In Nepal, the prohibition of serfdom is found alongside the prohibition of slavery (1). In Nigeria, it is included expressly within a prohibition of certain uses of children (2).
- Penalties for users of children held in serfdom are usually severe and synonymous with those for exploiters of forced labour or slaves (see below).

## Other forms of forced or compulsory labour

Forced or compulsory labour is effectively prohibited in all countries of the world. In most, the term is defined. In the majority of countries, there is no specific statement of policy or response to children being used in forced or compulsory labour; whether they involve a child or an adult, such forms of labour are abhorred, denounced and prohibited.

The consequences for exploiters of children as forced labourers are usually severe. Sometimes, specific consequences supplement those that may be imposed in the case of those who use forced labour generally.

The penalties for using forced labour usually entail imprisonment coupled with a fine.

- [MYS 2, § 374] In Malaysia, anyone who unlawfully compels any person to labour against his or her will is punished with imprisonment for up to one year and/or a fine.
- [BWA 1, §§ 71 & 172(d)] In Botswana, any person who exacts or imposes forced labour or causes or permits forced labour to be exacted or imposed for his benefit or the benefit of another person is guilty of an offence punishable by a fine and imprisonment of up to 18 months.

[EST 2, § 133] In Estonia, placing a human being, through violence or deceit, in a situation where he or she is forced to work or perform other duties against his or her will for the benefit of another person, or keeping a person in such a situation, is punishable by 1 to 5 years' imprisonment. The same act, if committed a) against two or more persons or b) against a person of less than 18 years of age, is punishable by 3 to 12 years' imprisonment.

[JPN 1, §§ 5 & 117] Legislation in Japan provides that "an employer shall not force workers to work against their will by means of violence, intimidation, imprisonment, or any other unfair restraint on the mental or physical freedom of workers" and sets a penalty for violations of penal servitude of not less than one year and not more than ten years, or a fine. This particular measure appears to apply only to cases involving employers and employees.

## Forced child soldiering

[C182, Art. 3(a)] Convention No. 182 lists forced or compulsory recruitment of children for use in armed conflict as one of the worst forms of child labour. In practice, forced recruitment of persons under the age of 18 for service in armed conflict is undertaken either by the State as part of a policy of national military service or by paramilitary or non-State elements within society as part of attempts to overthrow established regimes. Instances of the latter type tend to take place in circumstances such as civil strife, which limit responsive policy or actions by governments.

[NIC 8, § 96]  
[FRA 7, § L. 112-2] While some States have eliminated obligatory military service altogether, others have responded in a number of ways specifically to the forced recruitment of children for use in armed conflict:

- (1) [DZA 2, § 1]  
[CHE 5, § 8]  
(2) [RWA 3, § 19]  
[MEX 3, § 5]  
[DNK 2] ■ setting a minimum age for recruitment into national military service that rules out recruitment of persons under the age of 18 years. In several countries, the minimum age for recruitment into the armed forces is set at 19 or 20 years of age (1). In others, it is 18 years of age (2);
- [SMR 2, § 3, read with  
SMR 3, § 5]  
[AUT 4, § 41(2)] ■ permitting compulsory military service by persons under the age of 18 years, but ensuring that such conscripts are not used in armed conflicts;
- [JPN 11, § 25(1)]  
[BRB 2, ¶ 35]  
[LUX 2, §§ 2 & 8]  
[AUT 4, § 9(1)] ■ ensuring that any person under the age of 18 years who enlists in the armed services does so voluntarily, where there is the possibility that he or she may be used in armed conflict.

With respect to forced recruitment by non-State organizations, countries have established policies and laws defining, prohibiting and penalizing such practices. For example:

[NIC 1, § 79] In Nicaragua, persons urging children to participate in armed conflict or military action of any kind are subject to penal sanctions.

[PHL 7, § 4(h)] In the Philippines, the law prohibiting the recruitment, transport or adoption of persons under the age of 18 years in order to engage them in armed activities applies to activities within the country as well as abroad.

[GRC 3] The law in Greece specifies the means of coercion that may not be used in connection with the recruitment of minors for use in armed conflict.

[NOR 1, § 224]  
[SWE 2, Ch. 4, § 3]

In a few countries, the prohibition of forced recruitment into “foreign military service” is placed within the law prohibiting trafficking and applies to all persons.

[KEN 1, §§ 10 & 20]  
[GRC 3]  
[NOR 1, § 224]  
[SWE 2, Ch. 4, § 3]

The consequences of forcibly recruiting children for their use in armed conflict can be severe. Administrative sanctions are not used. Modern policy and legislative practice imposes sanctions involving both *fine* and *imprisonment* for the forced use of child soldiers.

[S/RES/1261 (1999),  
S/RES/1314 (2000),  
S/RES/1379 (2001),  
S/RES/1460 (2003),  
S/RES/1539 (2004),  
S/RES/1612 (2005)]

The UN Secretary-General has called for targeted sanctions to be imposed on countries which, among other practices related to children and armed conflict, engage in the forced recruitment of children for use in armed conflict.<sup>3</sup> The UN Security Council has called for a range of actions against those who forcibly recruit children for use in armed conflict, including exclusion of such persons from amnesty programmes and calling for respect for relevant international humanitarian law and child rights and protection obligations.

## Practical action to combat all forms of child slavery and slavery-like practices

Countries are taking practical action to stop child slavery and similar practices, particularly trafficking for the purposes of labour or sexual exploitation.

### *The sale and trafficking of children*

To an important extent, the challenges faced in taking practical action against the sale and trafficking of children arise from a combination of the inherent vulnerability of children and the particular nature of the crime. Unlike situations where children can actually be observed working, the *movement of a child* from one place to another or his or her presence at a place as a result of trafficking, are not so apparent. Practical action, including law enforcement, needs to be taken in a way that exposes the activities and arrangements that go hand in hand with the trafficking and sale of children.

[PHL 8, ¶ 302]

In the Philippines, for example, a special Certificate to Travel has to be issued for children travelling abroad following screening of the purpose of the child’s travel.

(1) [CHE 6, § 5.1.4]  
(2) [PHL 21, § 20]

Some countries have centralized police activities with a view to coordinating the efforts of different jurisdictional branches within the government to counter child trafficking (1). In other countries, similar coordinating bodies are formed outside of – but associated with – existing institutions (2).

<sup>3</sup> UN Doc. A/59/695–S/2005/72, Report on compliance and progress in ending the recruitment and use of children in armed conflict, February 2005, §§ 147–154.

[NZL 4] The response to child trafficking can be strengthened by coupling it with responses to other practices, for example, the commercial sexual exploitation of children.

(1) [PHL 3]

(2) [PHL 7, § 15]

(3) [PHL 7, § 16]

(4) [MLI 2, § 2]

The creation of local-level task forces with wide-ranging authority has been a strategy in the Philippines, prompted by the significant increase in trafficking in children (1). Also in the Philippines, all fines imposed and properties confiscated as a result of violations of anti-trafficking laws are set aside to be used exclusively for programmes that will prevent acts of trafficking and to protect, rehabilitate and reintegrate victims of trafficking (2). Also in the Philippines, policies and programmes tackling the trafficking of adults are given priority because that is where the problem is most significant (3). In countries where trafficking in children is more common, extraordinary practical efforts in, for example, the international exchange of law enforcement information come into play (4).

## Strategies to deal with trafficking in Norway

The Government of Norway's Plan of Action for Combating Trafficking in Women and Children, 2003–2005, identifies the following strategies:

- clarifying the criteria whereby victims of human trafficking may be recognized as refugees according to the 1951 Geneva Refugee Convention;
- ensuring that victims of trafficking have safe places to stay, where they can access necessary assistance and information;
- introducing a reflection period, during which expulsion decisions concerning victims of trafficking may be suspended for up to 45 days in order to provide practical assistance and counselling to the individual concerned;
- developing and implementing procedures for coordinating the follow-up, return and rehabilitation of women and children using networks between NGOs, the Norwegian authorities and the countries of origin;
- following up and assessing the need for further protection for women and children who assist authorities in investigating and prosecuting traffickers, beyond that provided for under the general programme for the protection of witnesses;
- supporting the establishment of an outreach team to work with prostitutes. The team disseminates multilingual information to prostitutes on their rights, how to contact the police, and on the availability of assistance and protection. The team also helps to raise awareness and enhance the expertise of the public services that deal with these issues;
- emphasizing the responsibility of child welfare authorities and other relevant services for minors who are victims of human trafficking.

Source: *Plan of Action for Combating Trafficking in Women and Children, 2003–2005*, <http://odin.dep.no/filarkiv/175924/Trafficking-eng.pdf>



## Practical action against forced child soldiering

[PHL 8, ¶ 253] Practical action in the Philippines is aimed at promoting the social reintegration of children who have been involved in armed conflict. Priority is given to the provision of educational opportunities, including vocational and skills training.

## Supporting international efforts against slavery and similar practices

International support for efforts to combat slavery and similar practices is evidenced by the many countries that have ratified or assented to such instruments as: the Palermo Protocol on human trafficking; the ILO's Conventions on Minimum Age (No. 138) and the Worst Forms of Child Labour (No. 182); the Convention on the Rights of the Child and its Optional Protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflicts; and the Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption.

[OPCRC, Art. 2] Under the terms of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, States Parties are obliged to ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

[SWE 3, ¶ 635] The international exchange of information on national approaches to what are to a large extent international challenges, such as trafficking, has proven to be useful for countries in a common geographic area.

(1) [SWE 3, 629 & 641] An interesting response has been to try to integrate efforts against trafficking into national foreign policy, going beyond just the financing of projects and activities to the provision of political support to international partners in this field (1). The conclusion of bilateral agreements can be the fruit of such efforts. For example, in 2003 the Governments of Thailand and Cambodia signed a Memorandum of Understanding on bilateral cooperation in eliminating human trafficking and assisting victims of trafficking (2).

(2) [THA 2, p. 7]

## Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

In May 2000, an Optional Protocol to the Convention on the Rights of the Child was adopted dealing with the involvement of children in armed conflict. The Optional Protocol complements Convention No. 182 by focusing on this specific issue, defining certain concepts related to it and describing the exact measures that need to be taken. For instance, the Optional Protocol goes further than Convention No. 182 by prohibiting the participation of children under the age of 18 in armed conflict and governs both the voluntary *and* forced recruitment of minors. Supervision of the Optional Protocol is entrusted to the UN Committee on the Rights of the Child, which considers information provided by State Parties on steps taken to implement the terms of the Protocol.

As 1 January 2007, there were 110 Parties to the Optional Protocol:

Afghanistan	Guatemala	Peru
Andorra	Holy See	Philippines
Argentina	Honduras	Poland
Armenia	Iceland	Portugal
Australia	India	Qatar
Austria	Ireland	Republic of Korea
Azerbaijan	Israel	Republic of Moldova
Bahrain	Italy	Romania
Bangladesh	Jamaica	Rwanda
Belarus	Japan	Senegal
Belgium	Kazakhstan	Serbia and Montenegro
Belize	Kenya	Sierra Leone
Benin	Kuwait	Slovakia
Bolivia	Kyrgyzstan	Slovenia
Bosnia and Herzegovina	Lao People's Democratic Republic	Spain
Botswana	Latvia	Sri Lanka
Brazil	Lesotho	Sudan
Bulgaria	Libyan Arab Jamahiriya	Sweden
Cambodia	Liechtenstein	Switzerland
Canada	Lithuania	Syrian Arab Republic
Cape Verde	Luxembourg	Tajikistan
Chad	Madagascar	Thailand
Chile	Maldives	The Former Yugoslav Republic of Macedonia
Colombia	Mali	Timor-Leste
Costa Rica	Malta	Togo
Croatia	Mexico	Tunisia
Czech Republic	Monaco	Turkey
Democratic Republic of the Congo	Mongolia	Turkmenistan
Denmark	Morocco	Uganda
Dominica	Mozambique	Ukraine
Ecuador	Namibia	United Kingdom of Great Britain and Northern Ireland
El Salvador	New Zealand	United Republic of Tanzania
Eritrea	Nicaragua	United States of America
Finland	Norway	Uruguay
France	Oman	Venezuela
Germany	Panama	Viet Nam
Greece	Paraguay	

Source: Office for the High Commissioner for Human Rights, [http://www.ohchr.org/english/countries/ratification/11\\_b.htm](http://www.ohchr.org/english/countries/ratification/11_b.htm)

## Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

In May 2000, an Optional Protocol to the Convention on the Rights of the Child was adopted dealing with the sale of children, child prostitution and child pornography. The Optional Protocol complements Convention No. 182 by focusing specifically on this issue, defining certain concepts related to it and describing the exact measures that need to be taken. For instance, the Optional Protocol clearly defines and obliges States Parties to cover certain activities under national criminal or penal law, lists and requires States Parties to recognize and adopt appropriate measures to protect the rights and interests of child victims of practices prohibited under the Protocol, and identifies and obliges States Parties to undertake measures aimed at preventing the offences referred to in the Protocol.

As at 1 January 2007, there were 115 Parties to the Optional Protocol:

Afghanistan	El Salvador	Paraguay
Algeria	Equatorial Guinea	Peru
Andorra	Eritrea	Philippines
Angola	Estonia	Poland
Antigua and Barbuda	France	Portugal
Argentina	Georgia	Qatar
Armenia	Guatemala	Republic of Korea
Austria	Holy See	Romania
Azerbaijan	Honduras	Rwanda
Bahrain	Iceland	Saint Vincent and the Grenadines
		Senegal
Bangladesh	India	Serbia
Belarus	Italy	Sierra Leone
Belgium	Japan	Slovakia
Belize	Jordan	Slovenia
Benin	Kazakhstan	South Africa
Bolivia	Kuwait	Spain
Bosnia and Herzegovina	Kyrgyzstan	Sri Lanka
Botswana	Lao People's Democratic Republic	Sudan
Brazil	Latvia	Switzerland
Brunei Darussaleem	Lebanon	Syrian Arab Republic
Bulgaria	Lesotho	Tajikistan
Burkina Faso	Libyan Arab Jamahiriya	Thailand
Cambodia	Lithuania	The Former Yugoslav Republic of Macedonia
Canada	Madagascar	Timor-Leste
		Togo
Cape Verde	Maldives	Tunisia
Chad	Mali	Turkey
Chile	Mexico	Turkmenistan
China	Mongolia	Uganda
Colombia	Montenegro	Ukraine
Costa Rica	Morocco	United Republic of Tanzania
Croatia	Mozambique	United States of America
Cuba	Namibia	Uruguay
Cyprus	Nepal	Venezuela
Democratic Republic of the Congo	Netherlands	Viet Nam
Denmark	Nicaragua	Yemen
Dominica	Niger	
Dominican Republic	Norway	
Ecuador	Oman	
Egypt	Panama	

Source: Office for the High Commissioner for Human Rights,  
[http://www.ohchr.org/english/countries/ratification/11\\_c.htm](http://www.ohchr.org/english/countries/ratification/11_c.htm)

## 2.3 Response to children in prostitution

[C182, Art. 3(b)]

International standards provide that the worst forms of child labour include the use, procuring and offering of children for prostitution. Modern policy and legislative practice involves carefully defining the phenomenon to be fought, establishing clearly its prohibition, taking action against the exploiters of children in prostitution and taking practical action to prevent child prostitution.

It is worth noting at the outset that prostitution in many countries is illegal, no matter what the age of the prostitute. There is a distinction, however, in that unlike adults who engage in prostitution, children in prostitution are typically seen as the victims of the crime. This distinction is important, as it is the foundation of the idea of child sexual exploitation and differentiates between responses to it and responses to prostitution as an illicit act more generally engaged in by adults. Like Convention No. 182, which defines the use of a child in prostitution as a worst form of child labour, national responses to the phenomenon often refer to it as child sexual abuse and exploitation, which also includes the involvement of children in pornography and pornographic performances.

### Defining, prohibiting and otherwise responding to children in prostitution

Modern policy and legislative practice defines the use of children prostitution broadly, to include the use of children, as well as their procurement or offering. There are many ways that modern policies are expressed in legislative practice.

Direct responses to children in prostitution establish crimes:

- done by those who pimp, procure or otherwise induce children into prostitution;
- done by the users (clients) of prostitution involving children; and
- done by those who derive a profit from children engaged in prostitution.

(1) [GBR 11, §§ 10 & 48]  
(2) [JPN 7]  
[HND 1, § 2]  
[ECU 2, § 69]

With respect to the *procuring of children for prostitution*, strong policies can be seen reflected in a broad spectrum of legislative provisions (1). In many cases, a connection is made either to trafficking in children, to pornography involving children or to both (2). In light of the dependent nature of children, many countries place the lion's share of blame on the procurers of children in prostitution and their customers rather than on the children themselves.

(1) [BHS 2, § 7]  
[MYS 2, § 372]  
(2) [DNK 1, § 228(2)]

In the Bahamas and Malaysia, anti-pimping legislation is in place, applicable to children in prostitution as well as to adults, without specifying the age of the prostitute, and effective wherever the prostitution occurs (1). In Denmark, the penalty for pimping may be higher where the sexual exploitation concerns a person under 21 years of age (2).

- [NZL 6, § 20] An anti-pimping provision focusing on children may be very simple, as in New Zealand, stating that no person may cause, assist, facilitate or encourage persons under 18 years of age to provide commercial sexual services to any person.
- [CHL 3, § 367bis(1)] The location of acts may be taken into account, for example in Chile, which criminalizes the promotion or facilitation of travel of persons to become prostitutes, whether inside *or outside* the country.
- [MYS 2, § 372] In Malaysia, anti-pimping/facilitation laws may include standards concerning the knowledge or intent of the persons involved. The standard might be set very high, that is, intending or actually knowing that the person concerned would be involved in prostitution, or the standard might be lower, that is, having reason to believe that the person will be so employed or used. The element of deceit may also be included within provisions governing trafficking.
- (1) [BRA 1]  
(2) [ARG 3, § 125bis] The age of the child for whom the pimp procures customers can affect which law or penalty is applied in prosecuting the pimp. In Brazil, an increased penalty is set for pimping where the victim is above the age of 14 and under the age of 18 (1). In Argentina, two levels of increased prison terms are set as penalties depending on the age of the prostitute – younger than 18 years of age and younger than 13 years of age – and a third level is introduced where deceit, violence or abuse of authority, among other things, are used to commit the crime, or where the pimp is a blood relative in the ascending line (parent, grandparent, etc.), spouse, brother, guardian or other person responsible for the child prostitute's upbringing or education (2).
- [MYS 2, § 372(2)] Another element may deal with force or methods of constraint. In Malaysia, for example, the withholding of clothing from a person or the threat of legal action for failure to pay a debt, real or contrived, may be considered an element of restraint.
- [JOR 2, § 310] A gender distinction can be found for example in Jordan, where it is specified as unlawful only to induce a *female* to become a prostitute, irrespective of age, or to induce one to reside in a brothel, whether inside or outside the country. Similarly, inducing a female under the age of 15 to commit an act of sodomy is a crime.
- Gender-based distinctions are not good practice since the harm caused by sexual relations in the context of prostitution or otherwise involving young persons is not gender dependent, and boys must be protected from this kind of exploitation, too.
- (1) [PAN 2, § 340]  
(2) [ARG 3, § 125bis] The law may also take into account the role of parents in promoting their own children for prostitution. For example, Panama strips parents of custody of their children in such cases (1). In Argentina, the penalty is increased if the crime involves the child of the accused (2).
- [CAN 6, § 9] A general criminal law may be a useful response to child prostitution if it creates liability on the part of any person for “causing a child to be in need of protection” resulting in a penalty of a large fine and imprisonment.

[NZL 6, § 22] Legislation dealing with the *users* of children in prostitution can be very straightforward. In New Zealand, for example, no person may enter into a contract or other arrangement for commercial sexual services from a person under 18 years of age and no person may receive commercial sexual services from a person under 18 years of age. Alternatively, responses can deal very precisely with what is to be prohibited. For example, where sexual contacts or acts with children are made criminal, the measure must also establish clearly what is meant by such contacts and which acts are prohibited.

(1) [GBR 11, §§ 9 & 10]  
(2) [MYS 2, § 372(3)]  
(3) [OPCRC-CP, Art. 2(b)] Some countries define sexual contacts broadly (1). Others define prostitution very broadly, referring only to the idea of a person's body being offered for sexual gratification for hire, either in money or in kind, and not to any particular acts (2). In the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, "child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration".

(1) [MYS 2, § 372(3)]  
(2) [JPN 7, § 2(2)] In some countries, the element of exchange of value for sex may need to have actually taken place, in the form of money or in kind (1). In Japan, the promise to give remuneration is sufficient to constitute child prostitution (2).

[GBR 11, § 47] In the United Kingdom, the user's knowledge or belief as to the child's age is taken into account, along with a list of acts or contacts that give the basis in law for prosecution.

(1) [GRC 3]  
(2) [SMR 4, § 177bis] In Greece, the penalty for engaging in a lecherous act with a minor is fixed as a function of the age of the minor, with the highest penalty for a crime involving a victim under 10 years of age, a lesser penalty involving a minor older than 10 but less than 15 years, and the lowest level of penalty involving minors older than 15 years (1). A similar approach is found in San Marino (2).

[FRA 3, § 225-5]  
[PHL 9, § 341]  
[DNK 1, § 229] With respect to *adult persons making profit* from the use of children in prostitution, few measures deal specifically with child prostitution; profiting from prostitution generally would also cover child prostitution.

[PHL 6, § 5] In the Philippines, profiting from child prostitution is expressly forbidden, including profiting in the operation of a bar, disco or other place of entertainment or establishment serving as a cover or engaging in prostitution in addition to the activity for which it is licensed.

[NZL 6, § 21] In New Zealand, a degree of knowledge is required in order to establish a crime, that is, "no person may receive payment or other reward that he or she knows, or ought reasonably to know, is derived, directly or indirectly from commercial sexual services provided by a person under 18 years of age".

Lastly, it should be noted that sexual relations between an adult and a person below a specified age are commonly held to be a criminal offence, whether or not money or things of value are exchanged. The same is typically true whether or not there is evidence of some form of consent, the view being that children are not capable of giving consent recognizable in law to such relations. With such a prohibition in place, some countries find

it unnecessary to establish further specific policies or laws directly aimed at the customers of child *prostitution*; they are in any case guilty of a criminal sexual offence. However, the specified age of consent is typically lower than 18 years and thus does not provide the protections called for by international standards.

[PHL 6, § 5] In at least one case, the Philippines, the exploitation of a child in prostitution is viewed as being actionable under the crime of rape or lascivious conduct. In this case, the clients of a child in prostitution under the age of 12 would be prosecuted as having committed rape or lascivious conduct. Where the child prostitute is older than 12, the person involved is prosecuted under a particular law concerning the exploitation of children. *Penalties* for the wide range of offences described above vary. Administrative sanctions are typically applied in addition to judicially imposed fines and imprisonment.

[FRA 3, § 225-22] In France, revocation of the licence of a restaurant or bar or the complete closure of a business or parts of a business used for prostitution for a five-year period is applied where persons associated with the business are found culpable of involvement in prostitution.

[TGO 1, § 91-95 33] In Togo, a ban is imposed for anyone found guilty for engaging in prostitution or pimping on the right to exercise a profession, seek a public elective function, administrate or manage a corporation or association, be a guardian of a minor, obtain or use a permit to hunt or fish or carry a weapon or vote in the political or union election.

[BRA 3, § 244(A)(1) & (2)] It is an offence in Brazil for a person to subject a child or adolescent to prostitution or sexual exploitation, the penalty for which is four to ten years' imprisonment and a fine. The owner, manager or person responsible for the premises where the offence occurs is liable to the same penalty, and in the event of conviction, the establishment's licence is immediately revoked.

Criminal sanctions involving fines and imprisonment for *offences of prostitution* do not typically mention the involvement of children or minors. This is because modern policy and legislative practice views children's involvement in prostitution as a *form of sexual exploitation* of the child, to be penalized as such. However, examples of some specific penalties involving crimes related to child prostitution *per se* were found:

[JPN 7, §§ 4 & 5] ■ In Japan, a person who buys or procures children in prostitution is punished with imprisonment with labour for not more than 5 years or a fine of not more than 3 or 5 million yen. A person who acts as an intermediary in child prostitution is punished with imprisonment with labour for not more than 5 years and/or a fine not exceeding 5 million yen. A person who as his or her business, acts as an intermediary in child prostitution is punished with imprisonment with labour for not more than 7 years and a fine not exceeding 10 million yen.

[EST 2, § 176] ■ In Estonia, aiding prostitution involving a person of less than 18 years of age by mediation, the provision of premises or in any other manner is punishable by a fine or up to five years' imprisonment.

- [TUN 4, §§ 232–234] ■ In Tunisia, three to five years' imprisonment, plus a fine, is the sanction for a number of crimes related to prostitution involving a minor, including:
- aiding, protecting or assisting someone engaged in prostitution;
  - profiting in any way whatsoever from the proceeds of prostitution;
  - acting as an intermediary for a prostitute.
- [ZAF 2, § 50(A)] In South Africa, any person who participates or is involved in the commercial sexual exploitation of a child is guilty of an offence and any person who is an owner, lessor, manager, tenant or occupier of the property on which the commercial sexual exploitation of a child occurs and who, within a reasonable time of gaining information of such occurrence, fails to report such occurrence at a police station, is likewise guilty of an offence. The penalty in both cases would a fine or imprisonment for a period not exceeding 10 years or both.
- [THA 3, § 8] In Thailand, whoever commits sexual intercourse or any other act against a person who is over 15 years of age but not yet over 18 years of age, with or without his or her consent, *in a place for prostitution*, shall be punished with imprisonment of one to three years and a fine of 20,000 to 60,000 baht. If the offence is committed against a child not over 15 years of age, the offender shall be punished with imprisonment of two to six years and a fine of 40,000 to 100,000 baht.

## Practical action regarding children in prostitution

Countries are making practical institutional arrangements and are undertaking other actions to make effective prohibitions of the use of children in prostitution.

- [JPN 8, §§ 6 & 16] It is prohibited in Japan to induce a child (i.e., a person under 18 years of age) over the Internet to have sexual intercourse. Transgressors are liable to sanctions.
- [NER 2, § 6] In Niger, an ILO project is involved in a campaign against child sexual exploitation, in which training and awareness raising are the principal elements.
- [NIC 5, p. 48] National plans of action against the worst forms of child labour, for instance in Nicaragua, often include elements to combat child prostitution.



## Actions against the sexual exploitation of children in Brazil

Sexual violence and exploitation of children invariably involve one of the worst forms of child labour, in particular prostitution and the production of pornography. As such, actions taken to combat sexual violence and exploitation will have a positive effect on eliminating these related worst forms of child labour. In Brazil, a number of initiatives have been undertaken with a view to eliminating such practices.

In June 2000, the National Committee on the Rights of Children (CONANDA) approved the National Plan to Confront Sexual Violence against Children and Adolescents, called the Sentinel Programme. The Sentinel Programme encompasses a set of combined actions involving specialized social assistance for child and adolescent victims of sexual violence through the payment of grants to the exploited victims. Today, it covers 315 Brazilian municipalities, including state capitals, metropolitan regions, tourist centres, port cities, trade centres, highway junctions, mining areas and border regions. During every month in 2002, the programme took care of over 34,000 people, including children, adolescents and their relatives, doubling its initial forecast.

Other initiatives specifically targeted child prostitution, one of the designated worst forms of child labour:

- The Brazilian Tourism Enterprise (EMBRATUR), in partnership with the Multi-Occupational Association for the Protection of Children and Adolescents (ABRAPIA) and the Ministry of Justice, ran a campaign to combat sex tourism involving children.
- A film was televised nationally to raise awareness of efforts to combat sex tourism. It was publicized by partners including the Federal Police, embassies and consulates, together with international organizations and NGOs.
- A free telephone hotline was created for the nationwide registration of complaints.

*Source: Combined Report (initial, second & third) of Brazil to the UN Committee on the Rights of the Child, UN Doc. CRC/C/3/Add.65, 17 December 2003*

## Supporting international efforts against child prostitution

Modern policy and legislative practice concerning international cooperation to combat child prostitution revolves primarily around the trafficking of children for the purposes of prostitution and action against sex tourism, by making related offences punishable even when committed abroad. A few other approaches can be cited.

[GBR 11, § 72] Some countries have explicitly authorized the initiation of legal proceedings for acts committed outside their own territory if those acts are prohibited both in the country where they occurred and in the country in which the prosecution is taking place. Such laws can be used against nationals who commit offences abroad (sex tourism), for example.

[CHE 7, § 4.3 & 4.4] The police in some countries have policies enabling them to cooperate with extranational non-governmental agencies specializing in victim assistance, as well as with intergovernmental police authorities (see box, below).

### A collaborative approach to fighting the sexual exploitation of children in Switzerland and abroad

The Swiss Federal Office of Police (OFP) collaborates with NGOs to exchange information regarding the sexual exploitation of children, including situations involving the worst forms of child labour. In 1999, it signed a declaration which regulates cooperation between NGOs, the police and the judiciary. Whilst it is the role of the State to conduct criminal prosecutions, NGOs can help out with preliminary investigations regarding the perpetrators and victims of these crimes. The Swiss authorities for their part can supply NGOs with information to prevent and detect criminal activities.

NGOs that cooperate with the Swiss authorities include the following:

- Arge Kipro is the Swiss Branch of ECPAT. ECPAT, which stands for “End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes”, is an international network of organizations and individuals working together to eliminate the commercial sexual exploitation of children. Arge Kipro is involved in combating sex tourism. It publishes a regular newsletter on this subject and works to provide information nationally and internationally. Arge Kipro was set up by several private associations at the end of the 1991/92 Swiss campaign against child prostitution in the third world and sex tourism. It is subsidized by the Swiss Confederation.
- The International Committee for the Dignity of the Child (CIDE) is involved in the fight against the different forms of commercial sexual exploitation of children in Switzerland and abroad.
- The International Social Service (SSI) and the Information Centre for Women from the Third World, which receive subsidies from the Swiss Confederation and the Swiss branch of Defence for Children International (DFI).

Sources: *Government report to the UN Committee on the Rights of the Child, UN Doc. CRC/C/78/Add.3, 19 October 2001; Situation Suisse: Rapport de situation 2000 (Office Fédéral de la Police)*

## 2.4 Response to pornography and pornographic performances

[C182, Art. 3(b)]  
[OPCR-C-CP, Art. 2(c)]

The worst forms of child labour also include the use, procuring or offering of a child for the production of pornography or for pornographic performances. Modern practice in this domain involves carefully defining what is meant by these terms, establishing clearly their prohibition and taking practical action to ensure their prevention. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography defines “child pornography” as “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes”.

### Defining, prohibiting and otherwise responding to pornography and pornographic performances as they relate to children

[C182, Art. 3(b)]

Modern practice defines child pornography broadly, to include not only the use of children for such purposes, but also their *procurement* or *offering*. It implicitly covers all recorded media.

The responses to children used in the production of pornography involve action against:

- persons who *lure children* into the production of pornography;
- persons who *engage children and work with them* in producing pornography;
- persons who *sell or otherwise distribute* child pornography; and
- persons who *buy or otherwise possess* child pornography.

Child pornography and the act of making it comprise sexually explicit recordings of children in any media or live performances of them.

(1) [NZL 4]  
(2) [BRB 5, § 3(1)]  
(3) [GRC 3]

Some countries have taken a broad view of the acts involved in the production of child pornography. New Zealand targets publications that promote or support, or tend to promote or support, the exploitation of children or young persons for sexual purposes, which includes the depiction of children engaged in sexual conduct (1). In Barbados, anyone who takes, permits to be taken, distributes, shows, has in his or her possession, publishes or causes to be published “indecent photographs” of a child is guilty of an offence (2). “Indecent photograph” can be taken to mean any kind of pictorial representation. In defining child pornography, Greece uses the phrase “any description or real or virtual representation, on any device, of the body aiming at sexual arousal” (3).

Based on their definition, countries *prohibit the use of children for pornography* at all its stages, including the procurement, offering, use or transport of children for this purpose.

(1) [PHL 5, Ch. V, § 9]  
(2) [IRL 4, § 2(1)]  
CEACR Direct Request  
to Ireland, C182, 2005]

Clearly, the term “children” here means persons under the age of 18. Some countries have gone further, applying the provision to protect persons of any age who are unable to protect or care for themselves (1). One country, contrary to the provisions of Convention No. 182, defines the term “child” in the context of child pornography as a person under the age of 17 years (2).

Differences in emphasis can sometimes be detected in policy and legislative practice, whereby the production and distribution of child pornography is clearly prohibited and penalized, but the procuring or use of a child for the purpose of producing pornography is not so clearly and *specifically* prohibited. This may have something to do with the nature of the pornographic product and law enforcement: It is easier to find and seize pornography than it is to identify its makers and their methods for procuring subjects. While it is the use of children in making pornography that needs to be addressed, there may be some further justification for this difference in emphasis. First, engaging a child in the real or simulated sexual conduct involved in making pornography is clearly an extreme type of physical and psychological violence against the child, best likened to rape or sexual molestation and prosecuted *under those laws*. Second, prohibiting the product should have the knock-on effect of eliminating the market that perpetuates the production of child pornography. Thus, pornographic material depicting children is commonly and broadly prohibited.

[SYC 1, § 172a]

A country can have a simple prohibition of all pornography, without *specifically mentioning* child pornography.

(1) [CHE 8, § 197,  
3bis(1)]  
[SMR 5, § 177]  
(2) [BRB 5, § 3(1)]  
[DNK 1, § 235(2)]  
(3) [SVN 2, § 187]

Many countries have expressly prohibited the obtaining by *electronic means*, i.e. the Internet, of pornography depicting children, as a subset of prohibitions against making, importing, distributing, showing, offering or making accessible child pornography (1). Others have simply prohibited the *possession* of indecent photographs of children (2). Other countries have prohibited *possession with the intention* of producing, distributing, selling or offering the prohibited material in any way (3).

[SMR 5, § 177ter]

Penalties in some countries are higher where the child involved is particularly young, for example, under 14 years of age.

(1) [GRC 3]  
(2) [ZAF 3, § 1]  
(3) [IRL 4, § 2(1)]  
[SVK 1, §§ 204 & 205]

Modern practice defines *child pornographic performances* broadly, to include not only the use of children for such purposes but also their procurement or offering. Implicit is the idea that the pornographic event is performed live or recorded on video or photograph. The definition can involve minors having sex with adults or between themselves at the solicitation of an adult (1). It can specify a “visual presentation”, defining that term broadly but focusing on materials in a recorded form, be it on celluloid film, video tape, or paper (2) or include also any type of description including audio representation (3).

- (1) [TZA 3, § 138(B)]  
[SMR 5, § 177]  
(2) [CHN (HKG) 5,  
§ 138A]  
[PHL 6, Ch. 5, § 9]
- Countries prohibit child pornographic performances, once defined, at all their stages, including procurement of persons for such performances, the offering of such performances, the use of persons in such performances, transportation of persons for such performances, etc. While it is implied by reference to “indecent exhibition or show” (1), there does not seem to be consistent explicit prohibition of live child pornographic performances where child pornography in general is prohibited. Some countries do, however, explicitly refer to and prohibit “live” pornographic performances (2).
- Sanctions for the use of children in pornography are typically difficult to distinguish from sanctions for using children in pornographic performances. In both cases, penalties involve economic and penal sanctions, and they are usually placed together in national legislation.
- [BRA 3, §§  
240–241(1)]
- In Brazil, it is an offence to produce or direct theatre, television plays or cinema films using a child or adolescent in scenes of explicit or pornographic sex. The penalty is imprisonment for two to six years and a fine. The same penalty applies to those who procure, authorize, facilitate or in any other way mediate the participation of a child or adolescent in such productions.
- [BLZ 4, § 152(2)(b)  
& (f) & (3)]
- In Belize, the Minister responsible is authorized by law to make regulations, among other things, “regulating child pornography” and “prohibiting the traffic of children for prostitution or pornographic purposes”. The regulations may prescribe, in relation to any contravention, a penalty not exceeding 5,000 Belize dollars or two years’ imprisonment or both, and may provide additional penalties for continuing or repeated offences.
- [AUT 6, § 215(a)]
- In Austria, whoever is convicted of *engaging* a minor for participation in a pornographic presentation or offers or mediates for such a purpose is punishable with imprisonment of up to three years. Persons who commit the act in the context of a criminal organization, with the use of heavy force or in such a way that the life of the person is endangered deliberately or through gross negligence, or the act results in particular harm to the person, are punished with imprisonment of from one to ten years.
- Practical institutional arrangements and other actions, reflected in legislation or policy, have also been set in place to make prohibitions of child pornography effective.
- (1) [CHE 4]  
(2) [FRA 4, ¶ 422]  
(3) [DNK 2]
- Switzerland has established a centralized office to coordinate the fight against criminality on the Internet, including distribution of child pornography by such means (1). France has established an Internet site that collates useful information about the laws and regulations on the protection of minors in the country and offers Internet users a form they can use to report child pornography activities (2). Denmark has authorized enforcement authorities to use special investigative procedures in cases of child pornography (3).

## Supporting international efforts against child pornography and pornographic performances

[MLT 1, § 208(A)] Some countries prohibit acts related to child pornography by their citizens or permanent residents wherever they occur – even outside the country – making the perpetrator of those acts liable within the country. Such provisions are intended to respond to international promotion of child pornography-related activities.

### Helping fight the exploitation of children in the production of pornography

The use of children for the production of pornography or for pornographic performances is considered one of the worst forms of child labour. By determining where child pornography is distributed and accessed, those who exploit children in its manufacture and delivery, producers (including photographers, publishers and creators of home videos), distributors (advertisers and those who trade) and collectors can be prosecuted and the children involved can be removed from this nefarious activity.

- In 1996, the Internet Watch Foundation (IWF) was established in the United Kingdom following an agreement between the Government, the police and Internet service providers that a partnership approach was needed to tackle the distribution of child pornography online. The IWF enables members of the public, via a hotline or online, to report child pornography discovered in a newsgroup or website. If the material is considered illegal, the IWF passes details to the police to initiate action against the originators and requests British Internet Service Providers to close down links to the site. If the originators are located abroad, the information is passed onto the National Criminal Intelligence Service (NCIS) who liaise with the enforcement agencies of the countries concerned. The same reporting and take down procedures are now provided for child pornography downloaded via mobile services. In 1997, the first year the IWF came into operation, 18% of the potentially illegal content assessed by the IWF, almost exclusively child pornography, was hosted in the UK. At the end of 2004, the figure was less than 1%.
- The French Government has set up a website ([www.internet-mineurs.gouv.fr](http://www.internet-mineurs.gouv.fr)) with an online form where Internet users can report sites containing child pornography. Information is also provided on the laws and regulations regarding the protection of children in France. The site was set up in November 2001, and by January 2002, information had been received regarding 1,100 sites, 100 of which were found to contain child pornography.
- The Government of Norway has worked on the removal of child Internet pornography through an email hotline. The hotline has received tips and ideas on a daily basis on where to find sites containing child pornography and sites linked to other paedophile activities. Verified information regarding child pornography is passed on to the National Bureau of Crime Investigation, which communicates to other countries through the Interpol system.

Sources: *National plan for safeguarding children from commercial sexual exploitation*, <http://www.iwf.org.uk>; *Second Periodic Report of France to the UN Committee on the Rights of the Child*, UN Doc. CRC/C/65/Add.26, 9 October 2003; [www.internet-mineurs.gouv.fr](http://www.internet-mineurs.gouv.fr); *First Report on Norway's Implementation Plan for Following up the First World Congress in Stockholm in 1996 against Commercial Sexual Exploitation of Children*

## 2.5 Response to the involvement of children in illicit activities

[C182, Art. 3I] In accordance with Convention No. 182, involving children in illicit activities is also a worst form of child labour. In this case, the targets are those who *involve* children in illicit activities and not the children doing the illicit activities. Modern policy and legislation carefully define the practices to be fought, establishing clearly their prohibition and taking practical action to ensure their prevention.

### Defining, prohibiting and penalizing the use, procuring and offering of children for illicit activities

[C182, Art. 3I] Convention No. 182 speaks of “the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs”. Since illicit activities are activities which are prohibited in law, additional legislative provisions are needed to prohibit and penalize *involving* children in these activities.

[FRA 3, § 227-21] In France, directly causing a minor to commit a crime or offence is punishable by five years’ imprisonment and a severe fine. The penalties are increased where the act occurred in connection with a school or educational institution, that is, inside or during egress or entrance or where the minor involved is less than 15 years old.

[MEX 4, § 201] In some cases, for instance in Mexico, the response to using or inducing a child to commit a crime is both broad and focused, by speaking of crimes generally but also specifying crimes involving acts in the nature of sexual exhibition and prostitution and narcotics-related offences.

[SYC 2, § 75(1) & (3)] In the Seychelles, the expected standard of behaviour is more stringent where persons have legal custody of minors involved in illicit activities. Persons with custodial obligations, that is, parents or guardians, commit an offence if they *allow* a minor to be used to commit a crime or take part in a crime; persons without custodial obligations must *cause or procure* the minor to commit the crime. Custodians and non-custodians are liable to the same penalty.

[NIC 6, § 71] In another broad approach, penalties are increased for crimes where they are committed through the use of a child.

[MDA 1, § 209]  
[HND 2, § 20]  
[CHL 4, § 123]  
[FRA 3, § 227-18] A very common response is to make it a crime to incite children to use an illegal drug, hallucinogenic substance or alcoholic beverage prohibited to underage children. In such cases, the child involved is usually also subject to criminal liability.

Fines and imprisonment are imposed as sanctions for the use, procuring or offering of a child for illicit activities, including the production and trafficking of drugs.

[BGR 1, § 188(1)]

In Bulgaria, for example, a person who compels a minor to commit a crime is punishable by up to five years' deprivation of liberty.

(1) [PRT 4, § 24]

(2) [FRA 3, § 227-18]

In Portugal, criminal sanctions are imposed on anyone who in any way involves children in the crime of trafficking or other illicit activities related to trafficking in narcotic drugs (1). France makes it illegal to *cause* a minor to use illicit drugs, then makes *the use of minors* in transporting, possessing, offering or selling narcotic drugs a crime with a penal and economic sanction, increasing the sanctions when the child involved is less than 15 years of age (2).

(1) [BRA 4, § 18(3)]

(2) [ARG 4, § 11]

[ESP 2, § 369(1)(5)]

(3) [CAN 7, § 2(c)]

In Brazil, penalties for trafficking in drugs are increased by one- to two-thirds if any of the offences were aimed at or involved minors, either as accomplices or victims (1). In Argentina and Spain, penalties are increased where minors are involved, in one way or another, in drug trafficking (2). In Canada, involvement of a child in the commission of a drug trafficking offence is seen as an aggravating factor (3).

(1) [IDN 5, § 89]

(2) [OMN 1, § 43.2.3]

In several countries, the death penalty is specifically authorized for anyone intentionally placing, letting, involving or asking to involve a child in the abuse, production or distribution of narcotics (1) or similar acts (2).



## Practical action on involvement of children in illicit activities

In addition to practical action to prohibit and punish the use, procuring and offering of children for illicit activities, countries also take steps to persuade children not to accept doing things that are illegal.

### *Withdrawal and rehabilitation of young offenders*

Research clearly shows that children who have previously been involved in committing crimes are those most likely to be used, procured or offered for committing future crimes. Modern practice includes policy and legislation designed to withdraw and rehabilitate young offenders of crime, with a view to breaking this cycle.

[PHL 8, 289(g) & 295] In the Philippines, a policy has been established whereby any minor who is apprehended for engaging in prostitution or other illicit conduct must be immediately delivered to the protective custody of a government agency responsible for social welfare, with a view to developing a suitable programme for his or her rehabilitation.

[DOM 1, § 33] In the Dominican Republic, the State, with the active participation of civil society, must guarantee policies and programmes of prevention against the illicit use of alcoholic, narcotic and hallucinogenic substances. It must also ensure permanent programmes in this area, paying special attention to the needs of children and adolescents who may be using these substances.

[NGA 3, § 11(4)] In Nigeria, a judicial tribunal may, where a minor has been convicted of offences related to drug dealing and abuse and if it thinks it appropriate, make an order for the offender's treatment, education, aftercare, rehabilitation and social integration.

## Supporting international efforts against involving children in illicit activities

Modern policy and legislative responses concerning international cooperation aimed at stopping the use, procuring and offering of children for illicit activities typically deal with human trafficking (see page 61), child prostitution (see page 70), and the use of children in pornography and pornographic performances (see page 74).

3.

## Response to children not benefiting from schooling





Learning is a natural process in a person's development. It begins at birth with an adult's first response to a child's cries for care and attention. With time, learning passes behaviour from adult to child. Attitudes and, eventually, skills are passed from generation to generation through learning.

Today, child labour – that is, work by children that is unacceptable – is not believed to constitute learning. Although children can learn from work, the foundations for current and future learning come from play, from contact with other children and adults in their environment and from life generally. Not least, children learn in a formal environment: school. While the approach to and arrangements for schooling differ from one culture to the next, the concept of a formal structure in which learning takes place has been universally recognized and accepted.

Once children have acquired basic survival skills, learning from participation in school is the better alternative to learning from work. Why? In comparison with the specific output or production-driven activities of the workplace, school provides broader skills in a broader context, so that children receive a fuller, more rounded education. Because of this, many countries have made their response to the problem of children not benefiting from schooling part and parcel of their response to child labour. International standards such as the Minimum Age Convention (No. 138) also reflect this.

For children from an early age through adolescence, school is the alternative to work. International instruments have set the norm that children have a right to education. Therefore, it should be considered normal for countries to have policies and laws that tackle the issue of children either not going to school or going to schools that are ineffective in providing an education. The starting point is to require that children go to school.



## 3.1 Response to children not going to school

Even where school attendance is not compulsory, countries have taken action to promote education, knowing that providing a place and obligation for education can help keep children out of work.

### Establishing and setting an age for compulsory education

Establishing effective compulsory education takes time and requires institution building. In a way similar to the setting of a minimum age for entry to employment or work, many countries have fixed a minimum age for leaving the educational system as the first step towards effective compulsory education.

- (1) [NIC 1, § 43]  
(2) [PAK 4, § 1]

Nicaragua has made a firm policy statement clearly committing itself to reducing existing disparities in educational opportunities between boy and girl children, by ensuring access to free primary education for both boys and girls (1). A similar policy orientation has been undertaken elsewhere, for instance in Pakistan, in connection with the Poverty Reduction Strategy Paper and national goals for education for all by 2015 (2).

Coordination of the age for compulsory schooling and the minimum age for entry to work is an important consideration in responding to child labour. If compulsory schooling ends before the minimum age for entry to work, children are left unable to work legally for a period of time. If the minimum age for entry to work is lower than the end of compulsory schooling, the option of working legally may cause children to drop out of compulsory schooling. And where there is no compulsory schooling, the option of working – even at an age below the legal minimum for admission to employment – is even more appealing, since there is no legal requirement to attend school.

- (1) [GBR 6, § 8(2)]  
[BRB 6, § 2]  
(2) [FRA 5, § L.131-1]  
(3) [BRA 5, § 6]  
(4) [GBR 6, § 8]  
[FRA 5, § L.131-1]  
[BRB 6, § 2]  
(5) [PRT 2, § 6]  
[MAR 1, § 1]

Some countries have set a compulsory school starting age and fixed the period during which children are required to attend school. In many countries, compulsory schooling begins at the age of five (1). In others, it begins at the age of six (2) and in others at the age of seven (3). Compulsory schooling ends at different ages in different countries, often because of the desire to coordinate the school leaving age with the minimum age for entry to employment. In some, compulsory schooling ends at 16 years of age (4), in others at 15 (5).

## Legally mandated length of compulsory education

### 13 years

Netherlands

### 12 years

Belgium, Brunei Darussalam, Germany, Saint Kitts and Nevis

### 11 years

Antigua and Barbuda, Armenia, Azerbaijan, Barbados, British Virgin Islands, Dominica, Grenada, Israel, Kazakhstan, Malta, Moldova, United Kingdom

### 10 years

Argentina, Australia, Belize, Canada, Congo, Costa Rica, Dominican Republic, DPR Korea, Ecuador, France, Gabon, Hungary, Iceland, Kyrgyzstan, Liberia, Monaco, Namibia, New Zealand, Seychelles, Spain, Saint Lucia, Saint Vincent and the Grenadines, Venezuela, USA

### 9 years

Algeria, Austria, Bahamas, Bahrain, Belarus, Cambodia, China, Comoros, Cook Islands, Cuba, Cyprus, Czech Republic, Denmark, El Salvador, Estonia, Finland, Georgia, Greece, Hong Kong, Indonesia, Ireland, Japan, Jordan, Korea, Kiribati, Lebanon, Libya, Lithuania, Luxembourg, Mali, Netherlands Antilles, Norway, Portugal, Russia, Sierra Leone, Slovakia, South Africa, Sri Lanka, Sweden, Switzerland, Tajikistan, Tunisia, Ukraine, Yemen

### 8 years

Albania, Angola, Bolivia, Brazil, Bulgaria, Chile, Croatia, Egypt, Fiji, Former Yugoslavian Republic of Macedonia, Ghana, Guyana, India, Italy, Kenya, Kuwait, Latvia, Malawi, Mongolia, Niger, Poland, Romania, Samoa, San Marino, Slovenia, Somalia, Sudan, Tonga, Turkey, Yugoslavia, Zimbabwe

### 7 years

Burkina Faso, Eritrea, Lesotho, Mauritius, Mozambique, Swaziland, Tanzania, Trinidad and Tobago, Tuvalu, Zambia

### 6 years

Afghanistan, Benin, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Côte d'Ivoire, Djibouti, Ethiopia, Guatemala, Guinea, Guinea-Bissau, Haiti, Honduras, Iraq, Jamaica, Madagascar, Mauritania, Mexico, Morocco, Nicaragua, Nigeria, Panama, Paraguay, Peru, Philippines, Rwanda, Senegal, Suriname, Syria, Thailand, Togo, United Arab Emirates, Uruguay, Vanuatu

### 5 years

Bangladesh, Colombia, Equatorial Guinea, Iran, Laos, Macao, Myanmar, Nepal, Viet Nam

### 4 years

Sao Tome and Principe

Source: *Right To Education Primers No. 2, Free and compulsory education for all children: The gap between promise and performance*, K. Tomaševski (UNESCO, 2001), p. 26

- (1) [CHN 6, § 5]  
(2) [SWE 4, ¶ 564] In China (Hong Kong Special Administrative Region), where the start of compulsory schooling is normally set at the age of six, it can be “postponed” until the age of seven in areas where it is not possible to uphold the normal age (1). Sweden has a flexible arrangement that permits schooling to begin a year earlier than the year generally designated in law (2).
- (1) [BGD 3]  
(2) [GEO 1] In some countries, the period of compulsory schooling is more modest, although non-compulsory education is nevertheless available. In Bangladesh, compulsory primary education is provided for children from six to ten years of age (1). In Georgia, primary education is compulsory from the age of six, continuing for six years (2).
- [GBR 6, § 8(3)] In some countries, particular care is taken in setting out the age of compulsory schooling in relation to the school calendar. In the United Kingdom, for instance, the period begins when the child attains the age of five and ends “at the end of the day which is the school leaving date for any calendar year (a) if he attains the age of 16 after that day but before the beginning of the school year next following, (b) if he attains that age on that day, or (c) (unless paragraph (a) applies) if that day is the school leaving date next following his attaining that age”.
- [ECU 1, § 135] In certain countries further secondary education is promoted, even though persons under the age of 18 are permitted to work after the completion of compulsory education. In such a case, the employer of young persons may be obliged to give them the opportunity to continue their studies by, for example, permitting them a number of free hours during the working day to attend school.
- [FRA 5, § L.131-1]  
[SWE 4, ¶ 564] Care is taken in some countries to ensure that compulsory schooling is applicable to all children resident in the country, not just its citizens.
- (1) [BRA 5, § 32]  
(2) [JPN 9, § 4]  
(3) [ISL 7, § 1] In some countries, the policy on compulsory education focuses on duration, rather than on the year in which it starts or finishes. The number of years ranges from eight in some countries (1), to nine in others (2) and to ten in others (3).

## Improving education in Belize

In a major effort to address structural weaknesses in the Belize education system and to improve student performance, a ten-year Education Sector Strategy was approved by the Government in 1999. Its overall objective: to provide children between the ages of 3 and 16 years with universal access to education. Some highlights of the programme include:

- In the School Year 1999–2000, School Community Liaison Officers were established in order to address problems of non-attendance.
- A Text Book Loan Programme was introduced providing students with the option of borrowing textbooks for the relevant academic year. The programme is aimed at the obstacle faced by poor students who cannot afford to purchase textbooks.

The Ministry of Education also provides assistance through various scholarship programmes. In 2000–2001, the Ministry awarded 2,400 tuition grants, book awards, bursaries and financial assistance to primary and secondary school students.

*Source: Second Periodic Report of Belize to the Committee on the Rights of the Child, UN Doc. CRC/C/65/Add.29, 13 July 2004*

## Adapting requirements for compulsory education

Where it is particularly difficult to enforce a compulsory age for education, some countries have attempted to adapt a strict pattern of minimum school age to take into account day to day obligations that might interrupt school attendance. Adapting schooling hours and their location can have an impact in making compulsory schooling effective in practice.

- (1) [GBR 9, § 135(1)]
- (2) [CAN 8, § 65.1]
- (3) [GBR 6, § 560(1)]

In the United Kingdom, for example, the law prohibits the employment of children under the minimum age, or before the close of school hours, or before 7 a.m. or after 7 p.m., or for more than two hours on any day on which he or she is required to attend school (1). Similar approaches are found elsewhere (2). Another approach, also in the United Kingdom, relates to employment taken up by children in their last year of compulsory schooling. In such a case, prohibitions and regulations of the employment of children will not apply, provided the employment is approved by the local education authority with a view to providing him or her with work experience as a part of his or her education (3).

- (1) [PHL 6, § 13 & Ch. IX]
- (2) [PHL 8, ¶ 217I]

In some cases, the national policy is to ensure that children have access to either formal or non-formal education, taking into account that some children are indeed working. In the Philippines, the law requires that the employer of working children ensure access to primary and secondary education, and allows that this education be of a non-formal nature. The Government is tasked with developing non-formal types of educational programmes. In this particular case, the approach is applied also to children of indigenous communities (1). One of the resulting programmes under this policy makes it possible for secondary school students who cannot attend classes for a variety of reasons to study their lessons at home or at the workplace (2).





## Non-formal approaches to education

As part of their strategies to eliminate child labour, Bangladesh, Indonesia and the Philippines have embraced a system of non-formal education to complement formal education policy.

In Bangladesh, the non-formal education programme (NFE) provides education in designated non-formal education centres run by the Government and NGOs. These centres educate approximately 1.5 million unenrolled primary-school-age children, school drop-outs, illiterate adolescents and adults. The Directorate of Non-Formal Education (DNFE) currently oversees four NFE projects. Three of the projects are rural-based and cater for 15–24 year olds and 11–45 year olds. The other project, based in Bangladesh's six divisional cities, provides learning opportunities for working children aged 8–14 from urban slums.

In addition, the Basic Education for Urban Working Children (BEUWC) project aims to provide high quality basic education through a two-year course which uses child-centered and participatory teaching-learning methods. Learning centres for 30 children are set up and managed by around 150 NGOs under the supervision of the DNFE. School hours are flexible and course content is made relevant to children's lives. In December 2000, a total of 3,375 centres had been established in all six divisional cities involving approximately 350,000 working children in total. High-achieving children from the BEUWC project or one of the established Child Welfare Primary Schools are eligible for stipends to support their studies at the primary and secondary levels.

Indonesia has implemented an "Open Schools" programme to make school accessible for children living too far away to attend every day. Under the programme, children attend school once a week; for the rest of the week, a teacher delivers lessons in the student's village. The "Open Schools" Programme applies to 3,483 secondary schools.

Similarly, in the Philippines, Project EASE or Effective and Affordable Secondary Education enables students who have difficulty in attending classes to study their lessons within the confines of their homes or workplaces. This is particularly useful for students who are unable to access public transport or who have work or other commitments on family farms or elsewhere.

*Sources: Working Paper on Child Labour in Indonesia, January 2002; Second Periodic Report of Bangladesh to the Committee on the Rights of the Child, UN Doc. CRC/C/65/Add.22, 14 March 2003; Second Periodic Report of the Philippines to the Committee on the Rights of the Child, UN Doc. CRC/C/65/Add.31, 5 November 2004*

## Making compulsory education effective

Although education may be compulsory, experience shows that obstacles can stand in the way of it being provided in practice. Countries have responded to these challenges by trying to give real meaning and effect to the idea of compulsory education.

[JPN 10, § 16] In Japan, anyone who lawfully employs a child must not hinder the child's compulsory education by such employment.

[CRI 2, § 65] In at least one case, public policy clearly places an obligation on the authorities to ensure registration of minors who should be in school and to establish appropriate mechanisms to ensure minors' daily attendance at school and to avoid them dropping out.

### Instituting the right to education

In the Philippines, a child's right to formal or non-formal education is enshrined in legislation. This right creates corresponding obligations upon employers to provide working children with access to primary and secondary education. Furthermore, in order to guarantee the access of children to education and training, the Department of Education is responsible for:

- formulating, promulgating and implementing relevant and effective educational programmes;
- conducting training for the implementation of educational programmes;
- ensuring the availability of required educational facilities and materials;
- conducting continuing research and development programmes for alternative education for working children;
- developing courses under its non-formal education programme aimed at promoting the intellectual, moral and vocational efficiency of working children who have not attended or completed elementary or secondary education;
- developing and instituting an alternative system of education for children of indigenous cultural communities.

Source: Republic Act 7610 (as amended by Section 4 of the R.A. No. 9231)

### Ensuring that compulsory education is entirely free of charge

Education costs money. The benefits to children of compulsory education can be improved where education is seen as a benefit to society and thus an effort is made to share the costs. Modern policy and legislative practice aims to provide facilities and instruction in compulsory education that are free to students and their families.

In places where child labour is prevalent, the costs of education are, in fact, quite complex. They include not only the cost of instruction and facilities but also of books, uniforms, writing implements and other disposables. Even more difficult to deal with are the high opportunity costs of education. The response in policy and legislation aims to make education as accessible as possible.

[BRA 1]

In some cases, a general scholarship programme may be created to extend financial assistance to poor families to ensure that their children and adolescents remain in school.

### Lessening the burden of education in Sri Lanka

In Sri Lanka, the provision of free schooling, free textbooks for children in State and State-assisted schools and free midday meals and subsidized transport for children in State schools has considerably lessened the burden of the cost of education on parents. In conflict areas, the Government distributed fabric for school uniforms to all boys and girls in 1997. Furthermore, 3 million copies of 211 different textbooks were distributed, 89 per cent of which were in Tamil. In 1998, the number of books distributed increased to 3.3 million.

*Source: Second Periodic Report of Sri Lanka to the UN Committee on the Rights of the Child, UN Doc. CRC/C/70/Add.17, 19 November 2002*

Modern policy and legislative practice can aim to cover or mitigate the incidental costs of books and other disposable educational materials. The costs of school uniforms may also be covered.

(1) [BLZ 2, pp. 58–60]  
(2) [SWE 3, § 543]

In Belize, part of the strategy to improve student performance and the chances of achieving universal access to education for all children between the ages of 3 and 16 years has been to institute a textbook loan programme, whereby students whose parents cannot afford to buy textbooks are loaned books by the Ministry of Education through their school (1). In Sweden, the cost of books and materials is covered by the State (2).

(1) [CHN 7, § 6.4]  
(2) [LKA 4, 195]

Modern policy and legislative practice can aim to cover or mitigate the costs of transport to and from schools, meals and lodging. In China (Macau Special Administrative Region), free meals are provided to students in compulsory education (1). Free midday meals and subsidized transport is on offer for children in State schools in Sri Lanka (2).

[CHN 8, § 10]

A more challenging problem is trying to cover or mitigate the loss of earnings either by the child or its family if the child goes to school. China has a policy of establishing grants-in-aid to support the school attendance of poor students.

## Creating incentives for education in Brazil

In 1995, the former Governor of Brasilia established the first pilot scholarship programme to prevent children from dropping out of school because of poverty. The stipend (or *bolsa*) guaranteed a minimum wage per month/per family regardless of the size of the family to all low-income families. All families in the lowest quintile of income distribution, that were employed or actively seeking employment qualified as long as their children aged 7–14 were enrolled in and attended school regularly. Additional incentives were built into the programme to reduce cases of school drop-out and/or having to repeat a school year: a school savings programme provided for a deposit of approximately US\$ 90 into a savings account in the child's name, if the child completed the school year and was promoted to the next grade. If a child failed school, he or she could attend summer school in order not to be disqualified from the programme.

The initiative taken in Brasilia inspired other minimum-income schemes which are being implemented under the Brazilian National Program for the Elimination of Child Labour (PETI):

- *Bolsa Criaca Cidadã* (Citizen Child Grant) is a minimum-income scheme granted to families with a per capita income of up to half the minimum wage and who have children in the 7–15 age group who are working. Children involved in the worst forms of child labour are specifically targeted. The monthly stipend ranges from R\$ 25 to R\$ 40 per month (US\$ 8.5 to 13.5). Children from municipalities with more than 250,000 inhabitants and from the State capital receive R\$ 40, while others receive R\$ 25.
- *Bolsa Escola* (School Grant) is a programme which provides a monthly income of R\$ 15 (about US\$ 7) per child (up to three children) under 15 years per household. It is granted to families whose monthly income is less than R\$ 90 (approximately US\$ 40) on the condition that their children attend at least 85% of classes.

Through the PETI programme, the Brazilian Government assists more than 800,000 children and adolescents in 2,601 municipalities.

Source: *Combating Child Labour Through Education appearing as Paper IV-5 in Time-Bound Programme Manual for Action Planning (Geneva, ILO/IPEC) 2003, p. 13*

## Establishing the legal responsibility of parents

- (1) [BRB 7, § 41]  
[PHL 6, § 12(1)]  
[CAN 9, Part IV,  
§ 69(3)]
- (2) [ETH 2, § 269(1)]  
[DZA 4, § 62]

Parents' authority over and responsibility towards their children is an unquestioned principle worldwide. As adults, parents are responsible for their children, who do not have the capacity to care fully for themselves. In addition to this general principle, some countries place a legal responsibility on parents to ensure their children comply with compulsory education requirements (1). The obligation on parents to ensure their children receive an education may well be established even in the absence of mandatory schooling, highlighting the moral and cultural importance attached to education (2).

- (1) [BLZ 3, § 31]
- (2) [LSO 1, § 2(a)]
- (3) [GUY 4, § 13]

In addition to the establishment of schooling systems, some countries make parents responsible for more than just simple attendance of their children at school. For example, in Belize, parents of children of compulsory school age who have not completed primary school are obliged to ensure the child receives a suitable education either by regular school attendance or otherwise, subject to fine (1). The possibility of parents providing for education *otherwise* than by school attendance is seen elsewhere as well (2). A similar obligation may be couched in terms of seeing to it that the child receives "efficient elementary instruction in reading, writing, and arithmetic" (3).

## Enforcing the compulsory education obligation

Once a policy of compulsory education is in place, compulsory school ages established and types of educational programmes adapted to particular national circumstances, the *enforcement* question comes into play. What happens if children and their parents do not comply with the compulsory schooling requirement? What mechanisms are used to ensure that children actually benefit from compulsory education?

- (1) [LBY 1, 227]  
 [TUN 2, § 21]  
 [CAN 10, § 30]  
 (2) [NOR 2, § 2-1]  
 (3) [MLT 2, § 44]  
 (4) [CHN 9, § 78]

As seen above, parents or guardians in some countries are liable to penalty – including denial of access to government aid, assistance and loans as well as banking loans – if they do not meet obligations in connection with compulsory education for their children. (1). In Norway, parents face liability for their deliberate or negligent actions resulting in the absence of their children from compulsory study (2). The penalty may be limited to an amount for each day the relevant child went unregistered in terms of the law (3). A term of imprisonment may even be imposed where a parent has not complied with an order to have his or her child attend school (4).

[CHN 10]

It is common for countries to prohibit the hiring of children and young persons at an age when they should be receiving mandatory education. In China, organizations or individuals that breach this prohibition are to be “criticized”, “reprimanded” and in severe cases fined, closed down or have their licences revoked.

Is there a difference between the penalties set for hiring workers under the minimum age for entry to employment and for hiring workers who are still of compulsory school age? Depending on the arrangement of the policy or law, several differences could be noted. First, labour administration institutions would typically be involved in enforcing minimum age requirements, while police, education, or social welfare institutions would be tasked with enforcing compulsory education requirements. Second, employers are the primary target of minimum age obligations, while children and parents are the first to be obliged to respect compulsory education laws. Employers, if they are mentioned at all in compulsory schooling legislation or policy, are typically a secondary target, seen to be obliged not to interfere with another’s obligation to follow compulsory schooling requirements.

## Ordinary enforcement and special inspection

Modern policy and legislative practice involves the use of State authorities and special inspection mechanisms to enforce compulsory education.

- (1) [BRB 7, § 43]  
 (2) [BLZ 2, pp. 59–60]

Barbados has legislated authority for School Attendance Officers, who have the power to enter premises at any reasonable time, whether during school hours or not, and make such enquiries as are necessary to determine if compulsory schooling requirements are being complied with. They are also empowered to question children about their attendance in school (1). In Belize, School Community Liaison Officers were established in order to address the problem of non-attendance in school, including investigating more persistent instances (2).

4.

## Enforcing laws and giving effect to policies





# Tall and Short

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Even with laws, backed up by policies, setting a minimum age for entry to employment or work, requiring compulsory education and prohibiting and penalizing the use of child labour, giving full effect to these laws and policies can be a tremendous challenge. Many different, interesting and innovative approaches have been applied in response to this challenge.

## 4.1 Boosting institutional capacity to enforce and give effect to policy and legislation

Policies and laws responding to child labour need institutions to give them effect, institutions with human and financial resources, political support and specialized technical expertise. Many ways of filling the need for institutional capacity can be seen in modern policy and legislative practice.

### Centralizing a responsible agency

Centralizing responsibility for the response to child labour in a single agency has been one way of fulfilling the need for building institutional capacity. Such an agency typically has a centralized authority and resources, in the hope of deriving a synergy of responsibilities and resources previously dispersed across different State bodies.

Policy advice and promotion can be served by centralized authorities. For example, as in New Zealand, a central authority might be created specifically charged with raising public awareness and understanding of ILO Convention No. 182 and to encourage initiatives to identify and eliminate the worst forms of child labour in the country (1). In other countries, bodies dealing uniquely with the worst forms of child labour can have important policy information collecting and policy advising functions (2).

It seems possible to make a distinction between centralization for *law enforcement purposes* and centralization for *social protection or promotional purposes*.

[NZL 4] A central authority may be mandated with the monitoring and enforcement of a film, video and publication classification system, hence harmonizing the response to child pornography and related activities.

Methods as well as institutional bodies can be centralized, for example:

[PHL 8, 291] ■ A centralized Child Abuse Data Monitoring System was established by the national policy authority in the Philippines, in coordination with social welfare authorities and NGOs, with a view to centralizing and coordinating the collection of data dealing with child abuse.

[BLZ 1, § 4(d)(iii)] ■ In Belize, a Labour Commissioner, subject to the directions of the Minister responsible, has been given the duty in the context of general labour policy administration, to collect, analyse and publish data and statistics in respect of the employment of women, children and young persons.



- [LKA 1] ■ There are also examples of centralized bodies with responsibility for, among other things, enforcement policy-making, which in turn interact with decentralized institutions charged with actually enforcing child labour rules and laws.
- (1) [ITA 2]  
[USA 2]  
[GEO 2, 289]  
(2) [UKR 3]
- Coordination functions are certainly an important objective, particularly in centralized law enforcement institutions. A frequent arrangement involves different government ministries with different mandates dealing with a common law-enforcement problem, such as trafficking in children for sexual purposes and child abuse (1). Coordination is important also where child protection is more generally the mandate, rather than pure law enforcement (2).
- [SWE 1] With respect to advocacy bodies with compliance mandates, an ombudsman's office can have monitoring and advocacy responsibilities along with a mandate to see to it that national laws and statutory instruments are in line with international conventions.
- (1) [ECU 2, §§ 194 & 195]  
[KEN 1, § 30]  
[MDA 2, 78–82]  
(2) [LKA 5, § 14]
- The more usual type of promotional body is one that is multipurpose and sectoral, dealing with all matters affecting children. Some of these bodies have many responsibilities (1). Some of these centralized bodies have or work with decentralized services with related or integrated mandates (2).
- (1) [JPN 5, § 15]  
(2) [ISL 5, § 12]
- Centralization need not be the only type of organizational response. *Decentralization* can also play a role, by giving responsibility to local authorities to, for example, establish facilities mandated to deal with a broad range of family and child development issues, called Child Guidance Centres in Japan, for instance (1). Similar approaches are found elsewhere, where local bodies are assigned a role in monitoring and investigating possible violations of the law (2).

## Involving partners in enforcing and giving effect to policy and law

Modern policy and legislative practice involves organizations outside the government. These focus typically on the implementation of responses on the one hand, and the monitoring of child labour on the other hand.

- (1) [NER 4, § 3]  
(2) [BGR 2, § 20]  
(3) [ZWE 1, § 2A (1)]

As a starting point in involving partners in responding to child labour, national law may give a mandate to address certain aspects of child labour to employers' and workers' organizations, along with NGOs (1), or not-for-profit legal entities (2). There is at least one case of a broadly mandated national advisory council dealing generally with child welfare, which is composed of government officials and "representatives from voluntary organizations", without mentioning employers' or workers' organizations (3).

[SMR 6]

When tasking an authority to *draw up lists of hazardous work*, many countries involve and consult workers and employers and their organizations. This involvement may take place in a broad institutional context where, for example, a consultative body deals with all matters affecting labour policy, or more particularly in matters dealing with child labour.

[NZL 2] In New Zealand, the Child Labour Advisory Committee works closely with workers' and employers' organizations at the national level, as well as with NGOs, focusing on raising awareness and sharing information on policies and activities related to the elimination of the worst forms of child labour.

(1) [PHL 7, § 16]  
(2) [CHL 5] National policy responses may *identify specific roles* for NGOs. In the Philippines, the Government actively involves NGOs in providing such things as counselling and temporary shelter to trafficked persons, by developing a system of accreditation among NGOs for the purposes of establishing centres and programmes for intervention at various levels of the community. NGOs are also tasked with helping to provide free legal assistance for trafficked persons (1). In Chile, NGOs are tasked with undertaking information and awareness-raising campaigns (2).

### ***Involving employers, workers and their organizations in enforcement, monitoring and implementation of policy and law***

[BGD 1, Annex 3] Modern practice involves employers and workers and their organizations in responding to child labour. It is common, for example, for workers and their organizations to pressure their governments to ratify ILO Conventions as a means of starting and structuring a response to child labour. NGOs are often also involved in lobbying the government.

(1) [PHL 3]  
(2) [TZA 1, p. 84] Workers' organizations can be instrumental in *implementing policies* by, for example, studying and monitoring the incidence of child labour, particularly with a view to helping develop as well as implement national policy. This process can begin with educational activities for members and associated organizations, developing into cursory assessments of the situation and in-depth studies. The Philippines focused on priority sectors within specific geographical target areas (1). In Tanzania, organizations worked out collaborative and coordinating arrangements within a framework for inter-sectoral trade union policy and strategic approaches to the worst forms of child labour (2).

(1) [JPN 1, § 104]  
[BLR 1, § 463]  
[KAZ 1, § 108]  
[VNM 1, § 12]  
[CHN 4, § 88]  
(2) [JPN 1, § 104] Workers' organizations are traditionally involved in monitoring the *implementation of labour laws* in the workplace, and in this context normally take part in stopping child labour by, for example, using their authority to report cases to the competent authorities (1). National law may also specifically recognize the authority of individual workers to report violations of labour laws to competent national authorities (2).

[ZAF 1, § 46(b)] An innovative legal provision found in South Africa makes it an offence to discriminate against a person who refuses to permit a child to be employed in contravention of the law. Such a provision, aimed at protecting "whistleblowers" and "protesting bystanders" of child labour from recrimination by the employer, can be a useful tool in efforts to enforce laws against child labour.

## ***Involving NGOs in enforcement, monitoring and implementation of policy and law***

Modern practice also involves NGOs in responding to child labour. This may be reflected in national policies and legislation. A critical question often is to what degree government institutions harmonize their responses with NGOs. Is there mere toleration of ad hoc NGO activities or is there closer coordination of public and private responses?

[NIC 7, 240] Governments may in their plans of action for responding to child labour specifically call on NGOs to implement policies and programmes to combat child labour.

(1) [CHE 4] NGOs often focus their response on particular forms of child labour, such as commercial sexual exploitation. In Switzerland, the authorities have close and ongoing contacts with a range of NGOs active in this area. One organization, for example, concentrates its efforts on sex tourism (1). Also in Switzerland, NGOs can receive financial support from the Government for their efforts. A written framework agreement structures the relationship between the NGOs and the national authorities, enabling the control of exchange of information and cooperation between the NGOs and police authorities and the judiciary (2).

## ***Involving community groups in enforcement, monitoring and implementation of policy and law***

Countries additionally involve community-based organizations in their response to child labour. They first establish how such organizations can best help in combating child labour and then tailor policy to make use of that advantage. For example, some community-based organizations function best at the grassroots level and can contribute to enforcement efforts at that level. Other organizations, while perhaps rooted in the community, are able to contribute most at the policy-making or implementation levels.

### ***Policy-level contributions***

[PER 1] In Peru, an Executive Committee for the Prevention and Eradication of Child Labour was created, made up of business executives, employers' and workers' organizations, civil society organizations and international cooperation agencies active in this field. The Committee is charged with implementing guidelines for the execution of activities aimed at the elimination of child labour, the selection of priority areas for support activities and the undertaking of any other activities that promote the prevention and eradication of child labour.

[ZWE 1, § 2B] Legislation in Zimbabwe is characteristic of a child welfare approach that can have implications for child labour. There, the legislation calls upon a National Child Welfare Council composed of government officials and representatives of voluntary organizations to advise the Minister responsible on any matter relating to the welfare of children, to monitor the

situation of children in need of care, to promote the coordination of various organizations involved in the protection of children's rights and to perform any other function assigned to it by the Minister.

### **Grassroots contributions**

[PHL 21, §§ 104–106] In the Philippines, national legislation has created a space for workplace monitoring of child labour practices. Groups of people working in commercial, industrial and agricultural establishments, whether workers or managers, are specifically authorized by localities, municipal and city councils to form themselves, on a voluntary basis where necessary, into “samahan”. Samahan have the legislative duty to:

- prevent the employment of children in any kind of occupation or calling which is harmful to their normal growth and development;
- forestall their exploitation by ensuring that their rates of pay, hours of work and other conditions of employment are in accordance not only with law but also with equity;
- give adequate protection from all hazards to their safety, health and morals, and secure to them their basic right to an education;
- help out-of-school youth to learn and earn at the same time by helping them look for opportunities to engage in economic self-sufficiency projects;
- coordinate with vocational and handicraft classes in all schools and agencies in the locality, municipality or city to arrange for possible marketing of the products or articles made by the students;
- provide work experience, training and employment in those areas where the restoration and conservation of the country's natural resources are deemed necessary.



## Iceland and Austria: Monitoring and enforcing child labour laws

In Iceland, the Government Agency for Child Protection (GACP) is responsible for coordinating and strengthening child protection work. At the local level, Child Protection Committees (CPCs) have been created to monitor the general protection of children (under 18 years of age) and to ensure their safety and welfare. CPCs' tasks as specified by law are:

- monitoring: investigating the circumstances, behaviour and conditions of the upbringing of children, and assessing the needs of those believed to be living in unacceptable conditions, the mistreated, or those with serious social problems;
- measures: applying child protection measures to safeguard children's interests and welfare;
- other tasks: undertaking other tasks assigned to them under the Child Protection Act and other legislation.

When a member of the public, a person who works with children, or a member of the police suspects that a child is living in unacceptable conditions, is subject to violence or whose health is being jeopardized (for example, where the child is involved in one of the worst forms of child labour such as prostitution or pornography), they must notify the case to the Child Protection Committee, which is responsible for its investigation.

The GACP also runs the Children's House, a child-friendly, interdisciplinary and multi-agency centre where different professionals work under one roof in investigating child sexual abuse cases. The idea behind the centre is to prevent subjecting children to repeated interviews by many agencies in different locations which can aggravate a child's trauma. The centre contains special facilities for questioning children and taking statements. Counselling and medical examinations are available to children who have been subjected to sexual offences.

Similar monitoring mechanisms exist in Austria. Schoolteachers, doctors and the organs of private youth welfare institutions and all corporate bodies whose fields of activities include youth welfare issues are required to report any cases of violation of the regulations on child labour which come to their attention. This approach is mandated under the Employment of Children and Young Persons Act. Under the Act, the enforcement of regulations on child labour is entrusted to district administrative authorities, the Labour Inspectorate for Child Labour, the Labour Inspectorate for the Protection of Young People and Apprentices, municipal authorities and school principals.

*Sources: Iceland: Child Protection Act No. 80/2002; <http://www.bvs.is/?ser=10>; The Employment of Children and Young Persons Act; Austria: Employment of Children and Young Persons Act, 1987.*

[PAK 2, § 15]

Modern approaches in the use of community-based organizations in monitoring child labour are given form in one well-known example in Pakistan, where vigilance committees are set up at the local level to, among other things, advise the district authorities on matters relating to the effective and proper implementation of laws against bonded labour. This response impacts partly, of course, on some of the worst forms of child labour.

## Using public powers to enforce and give effect to policy and laws

Every country has a police force authorized to act on behalf of the State to enforce the laws of the land. In every State, police are involved in enforcing laws dealing with acts such as theft, assault and murder. While the police authority of a State is the basis for the enforcement of laws on child labour, different groups of police respond to different types of child labour, and the police who deal with ordinary crimes are not always the same people who deal with violations of child labour laws. The authority to enforce policy and legislation through the State's right to police and enforce its own laws can be used as part of the institutional capacity to implement responses to child labour.

### Enhancing police authority

Modern policy and legislative practice enhances the authority of the police as part of strengthening institutional capacity to implement responses to child labour. Thus, authority and law enforcement methods used by the police have been adapted so that they better fit the demands of enforcing laws touching on child labour.

[VCT 1, § 5.7] Under legislation specifically dealing with the employment of women, young persons and children in Saint Vincent and the Grenadines, for example, it is an offence to refuse admission to a police officer authorized to investigate alleged violations of the law.

[TUN 3, §§ 45–46] In cases of vagrancy or child neglect, legislation in Tunisia authorizes child welfare officers to remove children in immediate danger and place them in a rehabilitation or reception centre, hospital or with a family or other type of safe haven in accordance with established rules. It is not known whether this type of provision is used in cases of child labour or its worst forms.

### Broadening police jurisdiction

Modern practice broadens the jurisdiction of the police as part of strengthening institutional capacity to implement measures against child labour, in particular where child labour *per se* was once outside the purview of police authorities.

(1) [ARG 2, § 19]  
(2) [KNA 1, § 5(1)] In Argentina, for example, legislation on the employment of women and children specifically authorizes the police to cooperate with other authorities established in legislation in investigating violations of the law (1). In Saint Kitts and Nevis, national legislation on the employment of children designates responsibility for enforcement to the Labour Commissioner (2).

Policy and legislation on the jurisdiction of police to enforce *labour policy and legislation* may be adapted to strengthen national institutional capacity to respond to child labour.

[PAN 2, §§ 592 & 596]  
[NGA 2, § 44] In Panama, a special children's unit of the national police force has been created to enforce Juvenile Court orders, as well the laws and policies dealing with the protection of minors, including child labour. The body also collaborates with public and private institutions in educational and training programmes. Similarly, in Nigeria, a specialized children's police unit has the task of dealing with child protection issues.

Policy and legislation on the jurisdiction of police to enforce *education policy and legislation* may also be adapted to strengthen national institutional capacity to respond to child labour.

## Using labour inspection to enforce and give effect to policy and law

Enforcing policy and legislation on child labour and the minimum age for admission to employment has long been the responsibility of labour inspection authorities. Modern practice can affect labour inspection policy and legislation so that it is an important institutional capacity in responding to child labour.

[BWA 1, §§ 1–5] The idea has been clearly stated in at least one country: the application of labour- and employment-related legislation is entrusted to the Department or Ministry of Labour and enforced through labour inspections.

### Specialized child labour inspection and pragmatic prosecution in Brazil

In March 2000, the Brazilian Ministry of Labour and Employment created Special Groups for the Prevention of Child Labour and Protection of Young Persons at Work. These groups, in cooperation with the State Chief Labour Inspectors, are responsible for the planning, organization and monitoring of inspections in rural and urban areas. Their objective is to combat concentrations of child labour and protect young persons in the formal and informal sectors of the economy. The data collected by inspectors is used periodically to prepare “maps of child labour” or “child labour indices” showing the activities and conditions in which working children have been found. Based on these maps, locations are selected for initiatives taken under the Brazilian National Program for the Elimination of Child Labour such as the *Bolsa Criaca Cidadã* and *Bolsa Escola* programmes (see box on p.88).

Labour inspection information is also sent to the Labour Prosecutions Office (LPS), which is responsible for law enforcement in labour matters. The LPS also participates in State “Forums for the Prevention and Eradication of Child Labour” and plays an important role in coordinating policies designed to remove children from work. For example, the LPS has been involved in negotiating the removal of children from working situations with individual companies and groups of companies. After children have been removed from work, prosecutors can take measures to give them access to the *Bolsa Criaca Cidadã* and *Bolsa Escola* programmes (see box on p.88).

Source: *Combating Child Labour Through Education appearing as Paper IV-5 in Time-Bound Programme Manual for Action Planning (Geneva, ILO/IPEC) 2003, p. 13*

## **Enhancing and broadening labour inspection authority**

Modern practice enhances and broadens labour inspectors' authority as part of strengthening institutional capacity to implement responses to child labour. Thus, the authority and methods used by inspectors to enforce laws under their jurisdiction have been adapted so that they better fit the demands of enforcing laws touching on child labour. An example of broadening authority may be that where education policy and legislation were once outside the purview of inspection authorities, a broadened jurisdiction strengthens institutional capacity to enforce laws.

[KHM 1, § 178]

In Cambodia, the labour inspector can request that a physician in the public service examine children less than 18 years of age in order to establish whether their job is beyond their physical capacities. If this is found to be the case, the Labour Inspector is empowered to demand that their conditions of employment be changed.

[KNA 1, § 5(2)]

In Saint Kitts and Nevis, the Labour Commissioner, or his or her agents, is authorized by legislation specifically on the employment of children to enter any premises or place where he or she has reasonable cause to believe that a child is being employed. Once there, enquiries may be made to ascertain whether the provisions of the law or any regulations made thereunder are being complied with.

[CAN 1, § 7]

Reference may be made in child labour legislation to the authority of health and safety inspectors to inspect enterprises employing young persons, for the specific purpose of determining whether any toxic substance or machinery or equipment used in any industrial undertaking or any plant engaged in particular types of processes is potentially dangerous to young persons, giving the inspector the authority to prohibit the employment of young persons in that undertaking.

## **Strengthening human and financial resources for labour inspection**

Modern policy and legislative practice should enhance the human and financial resources of labour inspection as part of strengthening institutional capacity to implement responses to child labour. Thus, numbers of inspectors, office and transport facilities and other resources needed to conduct labour inspection have in some cases been strengthened so that the enforcement of laws touching on child labour is improved.



## Using prosecutorial authority to enforce and give effect to policy and law

While the failure to implement policy and legislative responses to child labour may be uncovered by police and labour inspection authorities, the actual authority and resources to prosecute offenders may lie in the hands of separate prosecutorial authorities. Modern practice can affect policy and legislation concerning prosecutorial agencies to improve institutional capacity to enforce measures against child labour.

### Enhancing prosecutorial authority

Prosecutors' authority may be enhanced as part of strengthening institutional capacity to implement responses to child labour. Thus, limits placed on *how* prosecutors can go about enforcing laws under their jurisdiction have been adapted so that they better fit the demands of enforcing laws touching on child labour.

[BRA 1]

In Brazil, prosecutorial services within the Ministry of Labour have effective powers to act under administrative, civil and criminal procedures specifically in combating child labour. In the same vein, labour inspection reports are sent directly to the prosecutorial services for consideration of possible administrative or judicial measures.

[NIC 5, p. 48]

Nicaragua, in working out a plan of action against the sexual exploitation of children, specifically targeted citizens' access to the judicial system, with a view first to strengthening mechanisms for bringing accusations of abuse before the judicial authorities, and second to familiarizing prosecutorial and judicial authorities with the specialized mechanisms often needed to investigate, prosecute and sanction wrongdoing in this area.

### Broadening or adapting prosecutorial jurisdiction

Modern policies and laws can broaden or adapt the jurisdiction of prosecutors as part of using institutional capacity to implement responses to child labour. Thus, where some offences were once outside the purview of prosecutors, a *broadened jurisdiction* strengthens institutional capacity to enforce child labour laws. Administrative arrangements can strengthen the response to child labour by, for example, concentrating authority in one prosecutorial unit.

[IRE 3, § 18]

In Ireland, action on possible violations of child labour regulations may be taken before rights commissioners, who serve as an informal conciliation service to help resolve disputes involving young workers who, for example, refuse to work unlawful longer workdays at the insistence of the employer.

[PAN 3, § 22]

Countries can also establish courts to deal with different types of cases involving children. In Panama, for example, a higher court has been set up to review decisions from lower courts, with specific jurisdiction to deal with cases involving children.

## 4.2 Response to the difficulty of proving cases

Where the use of child labour has been made either a criminal or civil offence, a number of issues arise in proving, in court or before administrative authorities, that the offence has occurred, sometimes requiring the institution of special measures.

[LKA 7, § 286(A)] In Sri Lanka, the Penal Code has been amended to oblige developers of photographs or films to notify the competent public authorities if they discover any indecent or obscene images of a child or face penalties for not doing so.

[SMR 5, § 7] In San Marino, to overcome the difficulty of getting evidence of Internet transmission of child pornography, special permission can be given for evidence to be collected by specialized police officers by simulating the purchase of pornographic material, by being involved in intermediate activities or by taking part in domestic and foreign tourism related to the sexual exploitation of minors.

(1) [CHN 11, § 72(e)]  
(2) [PAK 5, § 11] Police authorities are typically given authority to seize evidence of criminal wrongdoing, including the exaction of child labour (1). In Pakistan, this can include entering places that are, or are reasonably believed to be, used as factories and making examinations of the premises and plant and of any prescribed registers, or taking evidence of persons if necessary (2).

## Protecting witnesses

Children and adults who are in a position to provide incriminating information about the use of child labour are often hesitant to cooperate with law enforcement officials, whether at the investigatory or prosecutorial stages of the case. Efforts are being made to protect such witnesses, particularly where the worst forms of child labour are involved. In this respect, special measures to protect child victims of trafficking are particularly important to facilitate the prosecution of traffickers.

(1) [JPN 5, § 15-2(1)]  
(2) [SVN 3, 314]  
(3) [CZE 2] Child welfare authorities often have the possibility of protecting children generally by sheltering them from harm, as in Japan (1). In Slovenia, it has been reported that in criminal proceedings involving a sexual assault on a child, juvenile victims must, from the initiation of proceedings, be provided with an authorized person, assigned by the court if necessary, to look after their rights, particularly those related to the protection of their integrity during an examination before a court (2). The Czech Republic has resolved that the responsibility for ensuring the protection of victims and witnesses in cases involving child victims of criminal offences falls to the Ministers of Labour and Social Affairs and of Health (3).

## Adapting evidentiary requirements

- [IDN 2, § 73] Some countries have adapted evidentiary criteria where cases of child labour, and particularly the worst forms of child labour, are involved. Can it be assumed in a court proceeding that a child is working, if he or she is found at a workplace? Yes, in at least one country, Indonesia, a child is *presumed* to be at work if found in a workplace, unless there is evidence to prove otherwise.
- [TZA 2, § 5(8)] It can sometimes be difficult to ascertain the age of a child involved in child labour. In Tanzania, in any proceedings involving alleged violation of child labour laws, if the age of the child is in issue, the burden of proving that it was reasonable to believe, after investigation, that the child was not underage rests on the person employing or procuring the child for employment.
- [GBR 9, § 135(3)] In the United Kingdom, where work is alleged to have been injurious to the life, limb, health or education of a child, a certificate attesting to the likely injurious nature of the specific work, signed by a medical practitioner and served on the employer, is admissible as evidence in any subsequent proceedings against the employer in respect of the employment of a child.



5.

## Response to the harm done to children





Children are harmed by child labour. The physical, psychological and emotional harm is irreversible in the worst cases. In other cases, there can be an effective remedial response.

## 5.1 Response to deprivation of education

It is often not possible to integrate current or former working children directly into formal schooling because they are older, have “life experience” and are not used to the school environment. Therefore, education programmes can be adapted to suit the needs of such children, taking into account their lost educational opportunities.

(1) [DZA 5, § 1]  
(2) [FRA 6, § 375]

In Algeria, legislation envisages protective measures for minors under the age of 21 whose education is at risk or has been compromised (1). France authorizes judicial intervention and the ordering of educational assistance in cases where parents jointly or individually request it and a child’s health, safety or morals are in danger or his or her education is seriously compromised (2).

### Providing remedial education

[C182, Art. 7(2)]

Convention No. 182 calls for “access to free basic education and, wherever possible and appropriate, vocational training for children removed from the worst forms of child labour”. Remedial education can help to compensate for the loss of schooling by former child labourers. Some governments and industry organizations are actively exploring responses to the loss of educational opportunities among working children.

UNICEF/  
[ILO/BGMEA MOU,  
4 July 1995]

In Bangladesh, a number of initiatives have been undertaken to improve educational opportunities for child labourers and to remedy situations where work has hindered children’s access to education. For instance, under a memorandum of understanding between the Bangladesh Garment Manufacturers and Exporters Association, UNICEF and the ILO, Learning Centres for working children or children removed from work have been established.

[PRT 3]

Bridging policies and associated programmes are another way of reintegrating former child labourers. In Portugal, an Integrated Education and Training Programme is helping children under the age of 16 years found in situations of child labour to complete their compulsory education. According to the Plan for Eliminating Exploitation of Child Labour (PEETI), the programme has the following objectives:

- to identify cases of school drop-out and child labour;
- to make parents, teachers and the general public aware of the importance of education and of preventing the exploitation of child labour;
- to facilitate legal employment of children through agreements with employers’ associations.

The PEETI and all government departments with responsibilities relevant to the elimination of the exploitation of child labour – especially the Department of Social Security, the Ministry of Education and schools – provide support in situations of child labour or school drop-out that have been identified, either for the child or the family concerned.

(1) [PHL 7, § 23]

(2) [PHL 3, § 1]

The Philippines has authorized government agencies to provide particular services to victims of trafficking generally, and educational assistance specifically to trafficked children (1). It has also developed a time-bound programme for the elimination of the worst forms of child labour by making education more widely available and by offering it in remedial circumstances (2). Elements include the provision of:

- financial support to schools, mostly through educational scholarships;
- non-formal or alternative learning programmes in order to improve the skills of former child labourers and to qualify them for re-entry to formal education (e.g. Children’s Laboratory for Drama in Education for children in scavenging);
- remedial lessons for children who have returned to school and/or are combining work with school;
- specialized schemes for, for example, child scavengers, where the working children are supported through an allowance scheme, supplemental feeding and remedial learning programmes.

## Providing education at the place of work

[TUR 1]

In situations where removal of children from workplaces is not immediately possible, modern practice allows for remedial education to be provided at the places where children work. For example, recognizing that there is a clear link between the poverty of families and the poor education of its children, Turkey, as part of its World Bank-supported Basic Education Policy, has undertaken a project to provide working children with full-time schooling, with a view to increasing their achievement levels.

## 5.2 Response to the physical and psychological harm done to child labourers

Victims of child labour, particularly its worst forms, are often damaged and traumatized, sometimes almost beyond recovery. As a result, many responses to child labour, particularly in its worst forms, tend to focus on prevention rather than rehabilitation. Nevertheless, modern policies should also support rehabilitation programmes addressing the physical and psychological harm done.

[C77, Art. 2(1),  
C78, Art. 2(1),  
C124, Art. 2(1)]

It is worth recalling that two international labour conventions, Conventions Nos. 77 and 78, call for the medical examination of persons under the age of 18 working in certain types of situations, namely industrial and non-industrial undertakings. Convention No. 124 calls for the medical examination of persons under the age of 21 employed underground and in mines. These older instruments, the first two adopted in 1946 and the last in 1965, are based on the idea that even younger persons doing work that is not a worst form of child labour warrant a check that the work is within their physical abilities, and that no physical harm comes to them as a result of engaging in such work. Conventions Nos. 77, 78 and 124 have been ratified by 43, 39 and 41 countries respectively (as at 1 January 2007); policy and legislative practice in these countries take the requirements of these instruments into account.

In many cases, the provision of psychological counselling services may not be targeted at child labourers *per se*, but may nevertheless amount to part of national policy responses to some of the worst forms of child labour.

[GEO 2, 157–158]

In Georgia, making psychological and social assistance available to children is part of the Government's broader declared policy and strategy for dealing with *child abuse and neglect*, with the aim of promoting physical and psychological recovery and social reintegration.

[PHL 7, §§ 23 & 24]

A similar approach is taken in the Philippines, where a range of mandatory social services available to *trafficked persons* are spelled out in legislation. While the broad listing – including the provision of emergency shelter, counselling, legal services, medical and psychological services and livelihood and skills training – speaks generally of trafficked persons, only one particular provision specifically addresses trafficked children, requiring that educational assistance be provided to them.

[LKA 1, § 7(b)]

In Sri Lanka, both government agencies and NGOs are active in assisting *sexually exploited* children, including those who may have been subjected to some of the worst forms of child labour, including child prostitution. All of these rehabilitation institutions are registered and monitored by a specialized department in the Ministry of Social Services. This department maintains its own facilities, acts as an advocate in securing justice for victims and refers victims to other facilities as needed. Here again, the



policy framework is one seeking broad-ranging child welfare and not specifically combating child labour or its effects.

[AUT 5, § 4]

In Austria, victims of sexual abuse may claim the cost of therapeutic treatment, which is paid for by the State through the social welfare system. The Ombudsman's Office can also be requested to take measures against the mental, physical or sexual abuse of children.

[MNG 1, § 15]

In Mongolia, the focus is similarly wide, aimed at providing special services to "children in especially difficult circumstances", defined to include children affected by natural disaster, epidemic diseases, accidents of universal character, armed conflicts, and those children who are victims of moral and physical depression caused by being orphaned, poor, neglected or involved in prostitution, violence or abuse.



# References

The table below lists the sources referenced in this publication, arranged alphabetically by country and accompanied by the standard ISO abbreviation for the country name. Under each country, the sources are numbered. Whenever one of these sources is cited in the main body of the text, the country name abbreviation and source number, followed by the relevant article or section number, is given alongside in the margin. The policy and legislation listed here is not exhaustive, and only relates to the examples referred to in the text of this Guide.

No.	Document Title	Country / Non-Metropolitan Territories
<b>Albania – ALB</b>		
1	Decree No. 384 of 20 May 1996 concerning the protection of minors at work	Albania
2	Law No. 7961 of 12 July 1995, Labour Code	Albania
<b>Algeria – DZA</b>		
1	Loi n° 81-03 du 21 février 1981 fixant la durée légale du travail	Algeria
2	Ordonnance n° 74-103 du 15 novembre 1974 portant Code du service national	Algeria
3	Information provided by the Government to the ILO	Algeria
4	Constitution du 28 novembre 1996	Algeria
5	Ordonnance n° 72-3 du 10 février 1972 relative à la protection de l'enfance et de l'adolescence	Algeria
<b>Argentina – ARG</b>		
1	Ley N° 22248 sobre Régimen Nacional del Trabajo Agrario	Argentina
2	Ley N° 11317 sobre el Empleo de los Jóvenes y las Mujeres y Menores	Argentina
3	Código Penal de la Nación Argentina (Decreto N° 3992 por el que se aprueba el texto ordenado de la Ley N° 11179)	Argentina
4	Ley N° 23737 de Estupefacientes	Argentina
<b>Austria – AUT</b>		
1	Employment of Children and Young Persons Act, 1987, <i>BGB I</i> , No. 599	Austria
2	Home Help and Domestic Employees Act 1962, <i>BGB</i> No. 235/1962, as amended in <i>BGB I</i> , No. 100/2002	Austria
3	Agriculture and Forestry Labour Act 1984 ( <i>Landarbeitsgesetz</i> )	Austria
4	Austrian National Defence Act ( <i>Wehrgesetz</i> ) 2001, <i>BGB I</i> , No. 146/2001, as amended in <i>BGB I</i> No. 103/2002	Austria
5	Victims of Crime Act 1972, <i>VOG</i> ; <i>BGB</i> No. 288/1972, as amended in <i>BGB I</i> , No. 150/2002	Austria
6	Criminal Code 1974, <i>BGB</i> No. 60/1974, as amended in <i>BGB I</i> , No. 134/2002	Austria
<b>Bahamas – BHS</b>		
1	Employment Act	Bahamas
2	Sexual Offences and Domestic Violence Act 1991	Bahamas
<b>Bangladesh – BGD</b>		
1	Project Proposal for the Preparatory Phase of the Time Bound Programme	Bangladesh
2	Children (Pledging of Labour) Act 1933	Bangladesh
3	Primary Education Act 1990	Bangladesh

No.	Document Title	Country / Non-Metropolitan Territories
<b>Barbados – BRB</b>		
1	Employment (Miscellaneous Provisions) Act 1977	Barbados
2	First Periodic Report to the Committee on the Rights of the Child, UN Doc. CRC/C/3/Add.45, 11 February 1997	Barbados
3	Shipping Act 1994	Barbados
4	Offences Against the Person Act 1994	Barbados
5	Protection of Children Act 1990	Barbados
6	Education (Amendment) Act 1990	Barbados
7	Education Act 1981	Barbados
<b>Belarus – BLR</b>		
1	Labour Code 1992, (Text No. 432)	Belarus
2	Criminal Code 1999 (Text No. 420)	Belarus
<b>Belize – BLZ</b>		
1	Labour Act Chapter 297, Revised Edition 2000	Belize
2	Government Report to the Committee on the Rights of the Child, UN Doc. CRC/C/65/Add.29, 2002	Belize
3	Education Act 1991	Belize
4	Families and Children Act 1998	Belize
<b>Benin – BEN</b>		
1	Code du travail, Loi n° 98-004 du 27 janvier 1998	Benin
2	Arrêté n° 371/MTAS/DGM/DT/SR du 26 août 1987 portant dérogation à l'âge d'admission à l'emploi des enfants	Benin
3	Arrêté interministériel n° 132/MFPTRA/MSP/DC/SGM/DT/SST du novembre 2000 fixant la nature des travaux et les catégories d'entreprises interdites aux femmes, aux femmes enceintes et aux jeunes et l'âge limite auquel s'applique l'interdiction	Benin
4	Information provided by the Government to the ILO	Benin
5	First Periodic Report to the Committee on the Rights of the Child, UN Doc. CRC/C/3/Add.52, 4 July 1997	Benin
<b>Botswana – BWA</b>		
1	Employment Act, 1982 (No. 29. (Cap 47:01))	Botswana
2	Apprenticeship and Industrial Training Act, 1983 (No.34)	Botswana
<b>Brazil – BRA</b>		
1	Information provided by the Government to the ILO	Brazil
2	Federal Constitution of 5 October 1988	Brazil
3	Act No 8.069 of 13 July 1990, Statute of the Child and Adolescent	Brazil
4	Act No. 6.638 of 21 October 1976 on the Traffic and Use of Narcotic Drugs	Brazil
5	Act No 9.394 of 20 December 1996 on National Education Guidelines and Bases	Brazil
6	Act No 10.097 of 19 December 2000 amending provisions of the Consolidated Labour Act on apprenticeship contracts	Brazil

No.	Document Title	Country / Non-Metropolitan Territories
<b>Bulgaria – BGR</b>		
1	Penal Code 1968, No. 26 (as amended)	Bulgaria
2	Child Protection Act of 31 May 2000	Bulgaria
<b>Burkina Faso – BFA</b>		
1	Loi n° 11/92 ADP du 22 décembre 1992 portant Code du travail	Burkina Faso
2	Arrêté n° 539/ITLS/HV du 29 juillet 1954 relatif au travail des enfants	Burkina Faso
3	Information provided by the Government to the ILO	Burkina Faso
4	Arrêté n° 958/FPT/DGTLS du 7 octobre 1976 relatif au contrat d'apprentissage	Burkina Faso
5	Arrêté n° 545/IGTLS/HV du 2 août 1954 portant dérogation à l'âge d'admission à l'emploi	Burkina Faso
<b>Burundi – BDI</b>		
1	Code du travail, Décret-Loi n° 1/037 du 7 juillet 1993	Burundi
<b>Cambodia – KHM</b>		
1	Labour Law 1997	Cambodia
2	Information provided by the Government to the ILO	Cambodia
<b>Cameroon – CMR</b>		
1	Arrêté n° 17 du 27 mai 1969 relatif au travail des enfants	Cameroon
<b>Canada – CAN</b>		
1	Prince Edward Island: Youth Employment Act Chapter Y-2, 1990	Canada
2	Alberta: Employment Standards Regulations Alta. Reg 14/1997	Canada
3	New Brunswick: Regulation 92-11 under the Radiological Health Protection Act (O.C. 92-83), 1992	Canada
4	British Columbia: Health, Safety and Reclamation Code for Mines in British Columbia, 2003	Canada
5	Manitoba: The Child and Family Services Act, 1986	Canada
6	Alberta: Protection of Children Involved in Prostitution Act RSA 2000, c. p-28	Canada
7	Federal: Controlled Drugs Substances Act, 1996	Canada
8	Alberta: Age of Majority Act RSA 2000	Canada
9	Prince Edward Island: School Act Chapter S-2.1, 1993	Canada
10	Ontario: Education Act, 1990	Canada
<b>Cape Verde – CPV</b>		
1	Decreto-Lei n° 62/87, <i>Boletim Oficial</i> n° 26, (30.06.1987), Régimen jurídico general de las relaciones de trabajo	Cape Verde

No.	Document Title	Country / Non-Metropolitan Territories
<b>Central African Republic – CAF</b>		
1	Arrêté n° 006/MFPTSSFP/DGTEFP/DESTRE du 21 mai 1986 fixant les conditions d'emploi des jeunes travailleurs ainsi que la nature des travaux et les catégories d'entreprises interdites aux jeunes gens et l'âge limite auquel s'applique l'interdiction	Central African Republic
2	Report to the Committee on the Rights of the Child, UN Doc. CRC/C/11/Add.18, 18 November 1999	Central African Republic Central African Republic
3	Loi n° 61/21 du 2 janvier 1961 instituant le Code du travail	
<b>Chile – CHL</b>		
1	Código del Trabajo, 1994	Chile
2	Decreto Supremo N° 655 que aprueba el Reglamento sobre Higiene y Seguridad en las Industrias, 1940	Chile
3	Ley N° 19409 que introduce el artículo 367 Bis del Código Penal, (07.09.1995)	Chile
4	Ley N° 17105, Alkoholes; Bebidas Alcohólicas y Vinagres, 1969	Chile
5	Plan Nacional de Prevención y Erradicación Progresiva del Trabajo Infantil y Adolescente en Chile (2001–2010)	Chile
<b>China – CHN</b>		
1	Regulations on Banning the Use of Child Labour 2002	China – Hong Kong Special Administrative Region
2	Circular on the Protection of Juvenile Workers 1995	China – Hong Kong Special Administrative Region
3	Labour Act of the People's Republic of China (Hong Kong Special Administrative Region) 1995	China – Macau Special Administrative Region
4	Labour Act of the People's Republic of China (Macau Special Administrative Region) 1995	China – Hong Kong Special Administrative Region
5	Crimes Ordinance Cap 200, as amended up to 30 June 1997	China – Hong Kong Special Administrative Region
6	Compulsory Education Act 1986	China – Hong Kong Special Administrative Region
7	Law No. 11/91M on the Macau education system of 4 February 1991	China – Macau Special Administrative Region
8	Compulsory Education Act 1986	China – Macau Special Administrative Region
9	Education Ordinance Cap 279, 1997	China – Hong Kong Special Administrative Region
10	Information provided by the Government to the ILO	China
11	Employment Ordinance 1968 (version 30 June 1997)	China – Hong Kong Special Administrative Region
12	Organized Crime Act No. 6/97M of 30 July 1997	China – Macau Special Administrative Region
13	Criminal Law of the People's Republic of China, 1986	China
<b>Colombia – COL</b>		
1	Resolución N° 001129, por la cuál se dictan algunas disposiciones relacionadas con el Trabajo de los Menores	Colombia Colombia
2	Código del Menor (Decreto N° 2737)	

No.	Document Title	Country / Non-Metropolitan Territories
<b>Congo, Democratic Republic of the – COD</b>		
1	Loi n° 015/2002 du 16 octobre 2002 portant Code du Travail	Democratic Republic of the Congo
<b>Congo, Republic of the – COG</b>		
1	Information provided by the Government to the ILO	Congo
<b>Costa Rica – CRI</b>		
1	Código de Trabajo (Ley N° 2) 1943	Costa Rica
2	Código de la Niñez y la Adolescencia (Ley N° 7739) de 6 de enero de 1998	Costa Rica
<b>Croatia – HRV</b>		
1	Labour Act of 17 May 1995 (Text No. 758). (Official Gazette No. 38/95)	Croatia
<b>Cyprus – CYP</b>		
1	The Children Law (Cap 352) 1956	Cyprus
<b>Czech Republic – CZE</b>		
1	Act No. 140/1961, Penal Code	Czech Republic
2	Resolution No. 578 of June 2003 to establish the Programme for the implementation of measures to eliminate the worst forms of child labour	Czech Republic
<b>Denmark – DNK</b>		
1	Criminal Code 1930	Denmark
2	Information provided by the Government to the ILO	Denmark
<b>Dominican Republic – DOM</b>		
1	Código de Protección de los Derechos de los Niños, Niñas y Adolescentes (Ley N° 136-03)	Dominican Republic
<b>Ecuador – ECU</b>		
1	Código de Trabajo 1978 (as amended)	Ecuador
2	Código de la Niñez y Adolescencia, codificación no. 2002-100 <i>Registro Oficial 737</i>	Ecuador
<b>Egypt – EGY</b>		
1	Ministerial Order No. 12 on specifying the occupations, industries and types of employment prohibited for persons under the age of 15 years, 1982	Egypt
2	Child Law No. 12, 1996	Egypt
3	Minister of Manpower and Migration Decree No. 118 of 2003	Egypt

No.	Document Title	Country / Non-Metropolitan Territories
<b>Eritrea – ERI</b>		
1	Labour Proclamation of Eritrea No. 118/2001	Eritrea
<b>Estonia – EST</b>		
1	Employment Contracts Act 1992 (consolidated)	Estonia
2	Penal Code 2001 (consolidated text Jan. 2004)	Estonia
<b>Ethiopia – ETH</b>		
1	Labour Law proclamation	Ethiopia
2	Civil Code	Ethiopia
<b>Finland – FIN</b>		
1	Seamen's Act (423/1978, amendments up to 936/2002 included)	Finland
2	Young Workers Act (998/1993, amendments up to 742/2002 included)	Finland
<b>France – FRA</b>		
1	Code du Travail, as amended up to 2006	France
2	Code du Travail (Partie Réglementaire – Décrets en Conseil d'Etat)	France
3	Code Pénal, as amended up to 2007	France
4	Second Periodic Report to the Committee on the Rights of the Child, UN Doc. CRC/C/65/Add.26, 9 October 2003	France
5	Code de l'Education, as amended	France
6	Code Civil, as amended	France
7	Code du service national	France
<b>Georgia – GEO</b>		
1	UNESCO Databanks	Georgia
2	Government Report to the Committee on the Rights of the Child, UN Doc. CRC/C/104/Add.1, 29 June 2001	Georgia
<b>Ghana – GHA</b>		
1	Criminal Code (Act 29), 1960, as amended	Ghana
<b>Greece – GRC</b>		
1	Ministerial Decision 130621/2003 (O.G.875/B): Operations, works and activities in which minors are prohibited from being employed	Greece
2	Act No. 1837/1989: For the protection of young persons in employment and other provisions	Greece
3	Information provided by the Government to the ILO	Greece



No.	Document Title	Country / Non-Metropolitan Territories
<b>Guyana – GUY</b>		
1	Employment of Women, Young Persons and Children Act No. 14 of 1933 as amended by the Employment of Young Persons and Children Act No. 21 of 1983 and Act No. 9 of 1999	Guyana
2	Summary Jurisdiction (Offences) Act (Chapter 8:02) (No. 17 of 1893) [consolidated up to 1973]	Guyana
3	Factories Act No. 30 of 1947 and its amendments	Guyana
4	Education Act No. 3 of 1876 and its amendment, Act No. 12 of 1999	Guyana
<b>Honduras – HND</b>		
1	Acuerdo Ejecutivo N° STSS-211-01 por el que se aprueba el Reglamento sobre Trabajo Infantil en Honduras, 10 de octubre de 2001	Honduras
2	Ley sobre Uso Indebido y Tráfico Ilícito de Sustancias Psicotrópicas (Decreto N° 126-89), 8 septiembre de 1989	Honduras
<b>Iceland – ISL</b>		
1	Seamen's Act No. 35/1985	Iceland
2	Act on Working Environment, Health and Safety in the Workplace No. 46/1980	Iceland
3	Anti-Smoking Act No. 74/1984	Iceland
4	Child Welfare Act No. 58/1992	Iceland
5	Child Protection Act No. 80/2002	Iceland
6	Regulations on work of young persons No. 426 /1999	Iceland
7	Primary Schools Act No. 66/1995	Iceland
<b>Indonesia – IDN</b>		
1	Civil Code ( <i>State Gazette</i> Nos. 335, 458 and 565 of 1926 and No. 108 of 1927)	Indonesia
2	Act of the Republic of Indonesia No. 13 2003 Concerning Manpower	Indonesia
3	Information provided by the Government to the ILO	Indonesia
4	National Plan of Action for the Elimination of the Worst Forms of Child Labour, Presidential Decree No. 59/2002, 13 August 2002	Indonesia
5	Law No. 23/2002 on Child Protection, 22 October 2002	Indonesia
6	National Action Committee for the Elimination of the Worst Forms of Child Labour, Presidential Decree No. 12/2001, 17 January 2001	Indonesia
<b>Ireland – IRL</b>		
1	Government Report to the Committee on the Rights of the Child, UN Doc. CRC/C/11/Add.12, 4 April 1996	Ireland
2	Protection of Young Persons (Employment) (Agricultural Workers) Regulations 1977	Ireland
3	Protection of Young Persons (Employment) Act 1996	Ireland
4	Child Trafficking and Pornography Act 1998	Ireland

No.	Document Title	Country / Non-Metropolitan Territories
<b>Italy – ITA</b>		
1	Act No. 977 of 17 October 1967 respecting the protection of children and young persons in employment	Italy
2	Information provided by the Government to the ILO	Italy
<b>Japan – JPN</b>		
1	Labour Standards Act (No. 49 of 1947), as amended by law no. 107 of 9 June 1995	Japan
2	Labour Standards regulations for Minors (Ordinance No. 13, 1954)	Japan
3	Mariner's Act (No. 122, 1947)	Japan
4	Regulations for Labour, Safety, and Sanitation of Mariners (Ordinance No. 53, 1964)	Japan
5	Child Welfare Act (No. 164, 1947)	Japan
6	Information provided by the Government to the ILO	Japan
7	Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protecting Children (No. 52, 1999) of 26 May 1999 (revised in 2004)	Japan
8	Act Concerning Regulations of Inducement of Children through Internet Dating Business Sites (No. 83, 2003)	Japan
9	The Fundamental Act of Education (No. 25, 1947)	Japan
10	The School Education Act (No. 26, 1947)	Japan
11	Enforcement Regulations of the Self-Defence Forces Act (Ordinance of the Administrative Agency No. 40 of 30 June 1954)	Japan
<b>Jordan – JOR</b>		
1	Abolition of Slavery Law 1929	Jordan
2	Penal Code Act No. 16 1960	Jordan
<b>Kazakhstan – KAZ</b>		
1	Labour Law 1999 (Act on Labour No. 493-I)	Kazakhstan
<b>Kenya – KEN</b>		
1	Children's Act 2001 (No. 8 of 2001)	Kenya
<b>Korea, Republic of – KOR</b>		
1	Information provided by the Government to the ILO	Korea
<b>Lesotho – LSO</b>		
1	Education Act No. 10 of 1995	Lesotho
<b>Libyan Arab Jamahiriya – LBY</b>		
1	Government Report to the Committee on the Rights of the Child, UN Doc. CRC/C/93/Add.1, 8 August 2000	Libyan Arab Jamahiriya
<b>Lithuania – LTU</b>		
1	Act No. 1-266 on Labour Protection	Lithuania

No.	Document Title	Country / Non-Metropolitan Territories
<b>Luxembourg – LUX</b>		
1	Loi du 23 mars 2001 concernant la protection des jeunes travailleurs, Mémorial, J.O. du Grand-Duché du Luxembourg, A n° 40	Luxembourg
2	Loi du 29 juin 1997 portant abolition du service militaire obligatoire et remplaçant les chapitres I à V de la loi du 23 juillet 1952 concernant l'organisation militaire, Mémorial J.O. du Grand-Duché du Luxembourg, A n° 45	Luxembourg
<b>Madagascar – MDG</b>		
1	Décret n° 62-152 du 28 mars 1962 fixant les conditions de travail des enfants, des femmes et des femmes enceintes (J.O.R.M. 7 avril 1962 n° 216 p. 582)	Madagascar
2	Arrêté 129-IGT du 5 août 1957 fixant le modèle du registre d'employeur	Madagascar
3	Plan national pour l'abolition du travail des enfants	Madagascar
<b>Malaysia – MYS</b>		
1	Children and Young Persons (Employment) Act 1966 (as revised)	Malaysia
2	Penal Code (Act 574) (as revised up to 1997);	Malaysia
3	Child Act 2001	Malaysia
<b>Mali – MLI</b>		
1	Code de protection de l'enfant (ordonnance n° 02-062/P-RM) du 5 juin 2002	Mali
2	Arrêté n° 01-1684/MPFEF-SG du 19 juillet 2001 portant création d'une commission nationale permanente de suivi de l'accord de coopération Mali-Côte d'Ivoire en matière de lutte contre le trafic transfrontalier des enfants	Mali
<b>Malta – MLT</b>		
1	Criminal Code of 1854, as amended	Malta
2	Education Act of 1988, as amended	Malta
<b>Mauritania – MRT</b>		
1	Loi n° 63-023 du 23 janvier 1963 portant institution d'un Code du Travail	Mauritania
2	Loi n° 025/2003 du 17 juillet 2003 portant répression de la traite des personnes	Mauritania
<b>Mauritius – MUS</b>		
1	Occupational Safety, Health and Welfare Act 1988	Mauritius
2	Child Protection Act 1994	Mauritius

No.	Document Title	Country / Non-Metropolitan Territories
<b>Mexico – MEX</b>		
1	Ley para la Protección de los Derechos de Niñas, Niños y Adolescentes, (DO el 29 de mayo de 2000)	Mexico
2	Ley Federal del Trabajo (DO el 1 de abril de 1970)	Mexico
3	Ley del Servicio Militar (DO el 11 de septiembre de 1940)	Mexico
4	Código Penal Federal (DO el 14 de agosto de 1931, última reforma del 6 de febrero de 2002)	Mexico
<b>Moldova, Republic of – MDA</b>		
1	Criminal Code (Law No. 154 XV) of 18 April 2002	Republic of Moldova
2	Initial Report to the Committee on the Rights of the Child, UN Doc. CRC/C/28/Add.19, 5 February 2001	Republic of Moldova
<b>Mongolia – MNG</b>		
1	Law on the Protection of the Rights of the Child, 1996	Mongolia
<b>Morocco – MAR</b>		
1	Loi no. 04-00 modifiant et complétant le dahir no. 1-63-071 du 13 novembre 1963 relatif à l'obligation de l'enseignement fondamental. Bulletin officiel no. 4800 du 1er-6-2000.	Morocco
<b>Namibia – NAM</b>		
1	Labour Act, 1992	Namibia
<b>Nepal – NPL</b>		
1	Labour Act, 1992	Nepal
2	Child Labour (Prohibition and Regulation) Act No. 14 of 2000	Nepal
3	Constitution of the Kingdom of Nepal, 1990	Nepal
4	Core "Time-Bound Programme" Project	Nepal
5	(P.270.14.336.052)	Nepal
	Child Labour (Prohibition and Regulation) Act No. 14 of 2000	
<b>New Zealand – NZL</b>		
1	Government Report to the Committee on the Rights of the Child on the Optional Protocol on the Involvement of Children in Armed Conflict, UN Doc. CRC/C/OPAC/NZL/1, 30 July 2003	New Zealand
2	Department of Labour Concerning the Worst Forms of Child Labour	New Zealand
3	Health and Safety in Employment Regulations, 1995	New Zealand
4	Information provided by the Government to the ILO	New Zealand
5	Crimes Act 1961	New Zealand
6	Prostitution Reform Act 2003	New Zealand

No.	Document Title	Country / Non-Metropolitan Territories
<b>Nicaragua – NIC</b>		
1	Código de la Niñez y la Adolescencia (Ley N° 287 de 27 de mayo de 1988)	Nicaragua
2	Código de Trabajo (Ley N° 185, La Gaceta, 1996-10-30, núm.30)	Nicaragua
3	Código Civil de la República de Nicaragua, 1904	Nicaragua
4	El Plan Estratégico Nacional para la Prevención y Erradicación del Trabajo Infantil y Protección de Adolescentes Trabajadores (2001–2005)	Nicaragua
5	El Plan Nacional Contra la Explotación Sexual Comercial de Niñas, Niños y Adolescentes (2003–2008)	Nicaragua
6	Ley de Reformas y Adiciones a la Ley N° 177, Ley de Estupefacientes, Sicotrópicos y Sustancias Controladas	Nicaragua
7	Second Periodic Report to the Committee on the Rights of the Child, UN Doc. CRC/C/65/Add.4, 12 November 1997?	Nicaragua
8	Constitución Política de la República de Nicaragua	Nicaragua
<b>Niger – NER</b>		
1	Décret portant partie réglementaire du Code du Travail, décret n° 67/126/MFP/T du 7 septembre 1967	Niger
2	Plan National d'Action de lutte contre le travail des enfants	Niger
3	Loi n° 2003-025 du 13 juin 2003 portant code pénal	Niger
4	Arrêté n° 39/MT/MA du 8 mars 2001 portant création, attribution et composition du comité directeur national du programme IPEC/Niger	Niger
<b>Nigeria – NGA</b>		
1	Labour Act CAP 198, Laws of the Federation of Nigeria 1990	Nigeria
2	Child's Rights Act 2003 (not in force in most states of Nigeria)	Nigeria
3	National Drug Law Enforcement Agency Decree No. 48, 1989	Nigeria
<b>Norway – NOR</b>		
1	General Civil Penal Code	Norway
2	Act relating to Primary and Secondary Education (Education Act) 2000	Norway
<b>Oman – OMN</b>		
1	Law on the Control of Narcotic Drugs and Psychotropic Substances	Oman
<b>Pakistan – PAK</b>		
1	Employment of Children Act 1991	Pakistan
2	Bonded Labour System Abolition Act 1992	Pakistan
3	Children (Pledging of Labour) Act 1933	Pakistan
4	Information provided by the Government to the ILO	Pakistan
5	Factories Act 1934 and its amendments	Pakistan

No.	Document Title	Country / Non-Metropolitan Territories
<b>Panama – PAN</b>		
1	Código de Trabajo (Decreto del Gabinete 252) 1971, as amended	Panama
2	Código de la Familia (Ley N° 3), 1994	Panama
3	Ley N° 40/1999 del Régimen Especial de Responsabilidad Penal para la Adolescencia	Panama
<b>Peru – PER</b>		
1	Resolución Suprema N° 018-2003-TR	Peru
<b>Philippines – PHL</b>		
1	Labour Code of the Philippines 1974, as amended	Philippines
2	Department Order No. 33-02, Guidelines and Operational Procedures on the Master Listing of Child Labourers, 2002	Philippines
3	Information provided by the Government to the ILO	Philippines
4	TBP-Philippines 2002	Philippines
5	Republic Act No. 7610 (Special protection of Children Against Child abuse, Exploitation and Discrimination Act), 1992	Philippines
6	Republic Act No. 9231 (Act on the Special Protection of Children Against Child Abuse, Exploitation and Discrimination of 2003)	Philippines
7	Republic Act No. 9208 (Anti-Trafficking in Persons Act of 2003)	Philippines
8	Second Periodic Report on the Implementation of the CRC, 1995–2000, UN Doc. CRC/C/65/Add.31, 5 November 2004	Philippines
9	Penal Code (Act No. 3815), 1930 as amended	Philippines
10	Republic Act No. 6425 (Dangerous Drugs Act), 1972	Philippines
11	Child and Youth Welfare Code (Presidential Decree 603), 1974	Philippines
<b>Portugal – PRT</b>		
1	Information provided by the Government to the ILO	Portugal
2	Basic Education Act (approved by Decree Law 46/86 of 14 October 1986)	Portugal
3	Plan for Eliminating Exploitation of Child Labour (PEETI) Annual Report 2002	Portugal
4	Decree Law No 15/93 on Trafficking and Consumption of Narcotic Drugs and Psychotropic Substances	Portugal
<b>Qatar – QAT</b>		
1	Labour Law No. 14 of 2004	Qatar
<b>Romania – ROM</b>		
1	Government Decision No. 617 of 21 April 2004 on the creation and organization of the National Director Committee for the prevention and combat of child exploitation through labour	Romania
2	Labour Code (Act. No. 53), 2003	Romania

No.	Document Title	Country / Non-Metropolitan Territories
<b>Rwanda – RWA</b>		
1	Loi n° 42/1988 du 27 octobre 1988 instituant le titre préliminaire et Livre premier du Code civil	Rwanda
2	Loi n° 51/2001 du 30 décembre 2001 portant Code du travail et ses arrêtés d'application	Rwanda
3	Loi n° 27-2001 du 28 avril 2001 relative aux droits et à la protection de l'enfant contre les violences	Rwanda
<b>Saint Kitts and Nevis – KNA</b>		
1	Employment of Children (Restriction) Act, No. 2	Saint Kitts and Nevis
<b>Saint Vincent and the Grenadines – VCT</b>		
1	Employment of Women, Young Persons, and Children Act	Saint Vincent and the Grenadines
<b>San Marino – SMR</b>		
1	Act No. 137 of 20 November 1990: Extension of compulsory schooling to the age of 16	San Marino
2	Act No. 15 of 26 January 1990 – Regolamento Organico e Disciplina dei Corpi Militari	San Marino
3	Act No. 132 of 13 November 1987 – Regolamento del Nucleo Uniformato della Guardia di Rocca	San Marino
4	Penal Code 1976, as amended	San Marino
5	Act No. 61 of 30 April 2002 Act for the repression of the sexual exploitation of minors	San Marino
6	Information provided by the Government to the ILO	San Marino
<b>Saudi Arabia – SAU</b>		
1	Labour and Workmen Law 1969, Sau-AR.1, Royal Decree No. 2 M/21, Labour Code	Saudi Arabia
2	Initial Report of Saudi Arabia to the Committee on the Rights of the Child, UN Doc. CRC/C/61/Add.2, 15 October 1998	Saudi Arabia
3	Royal Decree No. 1300, children under 18 are not allowed to work as camel jockeys	Saudi Arabia
<b>Seychelles – SYC</b>		
1	Penal Code, Penal Code (Amendment) Act 1996	Seychelles
2	Children's Act 1982	Seychelles
<b>Singapore – SGP</b>		
1	Penal Code (No. 4 of 1871)	Singapore
<b>Slovakia – SVK</b>		
1	Act No. 183/1999, Criminal Code	Slovakia

No.	Document Title	Country / Non-Metropolitan Territories
<b>Slovenia – SVN</b>		
1	Regulations on the protection of workers against risks of exposure to carcinogenic and/or mutagenic substances 2002	Slovenia
2	Act to amend and supplement the Penal Code of 30 March 2004	Slovenia
3	Second periodic report to the Committee on the Rights of the Child, UN Doc. CRC/C/70/Add.19, 18 September 2001	Slovenia
<b>South Africa – ZAF</b>		
1	Basic Conditions of Employment Act 1997	South Africa
2	Child Care Act 1983	South Africa
3	Films and Publications Amendment Act No. 34 of 1999	South Africa
<b>Spain – ESP</b>		
1	Real Decreto 1435/1985 por el que se regula la Relación Laboral Especial de los Artistas en Espectáculos Públicos	Spain
2	Código Penal (Decreto Legislativo 3096/1973)	Spain
<b>Sri Lanka – LKA</b>		
1	Information provided by the Government to the ILO	Sri Lanka
2	Employment of Women, Young Persons and Children Act (No. 47 of 1956, as amended by Act No. 8 of 2003)	Sri Lanka
3	Factories Ordinance (No. 45 of 1942)	Sri Lanka
4	Second Periodic Report on the Implementation of the Convention on the Rights of the Child, UN Doc. CRC/C/70/Add.17, 19 November 2002	Sri Lanka
5	National Child Protection Authority Act (No. 50 of 1998)	Sri Lanka
6	Penal Code (Ordinance No. 2 of 1883), including its Amendments Act (Nos. 22 of 1995 and 29 of 1998)	Sri Lanka
7	Information provided by the Government to the ILO	Sri Lanka
<b>Swaziland – SWZ</b>		
1	Employment Act, 1980	Swaziland
<b>Sweden – SWE</b>		
1	Information provided by the Government to the ILO	Sweden
2	Penal Code 1962, as amended	Sweden
3	Third Periodic Report to the Committee on the Rights of the Child, UN Doc. CRC/C/125/Add.1, 12 July 2004	Sweden
4	Second Periodic Report to the Committee on the Rights of the Child, UN Doc. CRC/C/65/Add.3, 25 March 2004	Sweden
<b>Switzerland – CHE</b>		
1	Ordonnance 1 relative à la loi sur le travail (OLT 1) du 10 mai 2000	Switzerland
2	Loi sur le travail (LTr; RS 822.11) 1964	Switzerland
3	Ordonnance du 20 décembre 1982 concernant le travail à domicile (OTrD)	Switzerland
4	Information provided by the Government to the ILO	Switzerland



No.	Document Title	Country / Non-Metropolitan Territories
5	Loi fédérale du 3 février 1995 sur l'arme et l'administration militaire (LAAM; RS 510.10)	Switzerland
6	Traite des êtres humains en Suisse: Rapport du groupe de travail interdépartemental traite des êtres humains au Département fédéral de justice et police	Switzerland
7	Situation Suisse: Rapport de situation 2000 (Office fédéral de la Police)	Switzerland
8	Code pénal Suisse (CP; RS 311.0) 1937	Switzerland
<b>Syrian Arab Republic – SYR</b>		
1	Law No. 134 of 1958 regulating agricultural relations and its amendments contained in Law No. 34 of 2000	Syrian Arab Republic
2	Labour Code No. 91 of 1959 and amendments made thereto by Law No. 24 of 2000	Syrian Arab Republic
3	Order No. 183 of 2001 identifying industries and tasks in which the employment of children below 18 years is prohibited	Syrian Arab Republic
<b>Tanzania, United Republic of – TZA</b>		
1	Project document: Supporting the Time Bound Programme on the Worst Forms of Child Labour in Tanzania	Tanzania, United Republic of (Tanganyika)
2	Employment and Labour Relations Act 2004	Tanzania, United Republic of (Tanganyika)
3	Penal Code 1945, as amended	Tanzania, United Republic of (Tanganyika)
<b>Thailand – THA</b>		
1	Labour Protection Act 1998	Thailand
2	National Plan of Action for the Elimination of the Worst Forms of Child Labour (2004–2009)	Thailand
3	Prevention and Suppression of Prostitution Act 1996	Thailand
4	Information provided by the Government to the ILO	Thailand
<b>Togo – TGO</b>		
1	Code pénal du 13 août 1980	Togo
<b>Tunisia – TUN</b>		
1	Code du travail, 1966 tel que modifié jusqu'à la Loi du 15 juillet 1996	Tunisia
2	Loi d'orientation n° 2002-80 du 23 juillet 2002 relative à l'éducation et à l'enseignement scolaire	Tunisia
3	Code de la protection de l'enfant, promulgué par la Loi n° 95-92 du 9 novembre 1995	Tunisia
4	Code pénal institué par le Décret du 9 juillet 1913	Tunisia

No.	Document Title	Country / Non-Metropolitan Territories
<b>Turkey – TUR</b>		
1	Information provided by the Government to the ILO	Turkey
2	Regulations on the Fundaments and Principles of the Employment of Children and Young Workers, Decree 25425 of April 2004	Turkey
3	Labour Law, Law No. 4857 of 22 May 2003	Turkey
4	Regulations on Heavy and Dangerous Work, Decree No. 7/6174 of 9 April 1973	Turkey
<b>Ukraine – UKR</b>		
1	Labour Code 1994 as amended up to 10 July 2003	Ukraine
2	Penal Code (Law No. 2341-111), 5 April 2001	Ukraine
3	Order n° 1200 on the Creation of Interdepartmental Committee for issues relating to child protection, 3 August 2000	Ukraine
<b>United Arab Emirates – ARE</b>		
1	Federal Law regulating Labour Relations (No. 8 of 1980)	United Arab Emirates
<b>United Kingdom of Great Britain and Northern Ireland – GBR</b>		
1	Children and Young Persons Act 1933 (as amended by the Children's Regulations 1998 and 2000)	United Kingdom
2	Employment of Women, Young Persons, and Children Act 1920	United Kingdom
3	Information provided by the Government to the ILO	United Kingdom
4	Child Labour and the International Labour Organization (ILO) Convention 182: UK programme of action	United Kingdom
5	Employment of Children Regulations (Northern Ireland) 1996	United Kingdom
6	Education Act 1996	United Kingdom
7	Children and Young Persons Act 1963	United Kingdom
8	The Management of Health and Safety at Work Regulations 1999	United Kingdom
9	Children (Northern Ireland) Order 1995	United Kingdom
10	Children and Young Persons (Guernsey) Law, 1967	United Kingdom (Guernsey)
11	Sexual Offences Act 2003	United Kingdom
12	Nationality, Immigration and Asylum Act 2002	United Kingdom
<b>United States of America – USA</b>		
1	Fair Labor Standards Act of 1938, as amended (March 2004): 29 U.S.C. § 201, et seq.	United States
2	Information provided by the Government to the ILO	United States
<b>Uruguay – URY</b>		
1	Decreto N° 372/99 de Regulación de las Empresas Forestales	Uruguay
2	Código del Niño (Ley N° 9342)	Uruguay
3	Decreto 647/78	Uruguay

No.	Document Title	Country / Non-Metropolitan Territories
<b>Viet Nam – VNM</b>		
1	Labour Code of the Socialist Republic of Viet Nam, as amended up to 2 April 2002	Viet Nam
<b>Zambia – ZMB</b>		
1	Employment of Young Persons and Children Act, as amended by Act No. 10 of 2004	Zambia
<b>Zimbabwe – ZWE</b>		
1	Children's Protection and Adoption Act, 1971 (No. 22), as amended by Act No. 23 of 2001	Zimbabwe

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# Relational Tables

## Relational Table: Minimum Age Convention, 1973 (No. 138)

Article Number	Requirement	Related sections of this Guide
<b>1</b>	<b>Pursue national policies for abolition of child labour, raise progressively minimum age, consistent with physical and mental development of young persons</b>	Raising the minimum age, page 24
<b>2</b>		
2.1	Declare minimum age	Defining the scope of work, page 14 Parental consent, page 17 Raising the minimum age, page 24 Limiting the capacity to contract, page 24 Gender distinctions, page 18
2.2	Notify further declarations	
2.3	Minimum age not to be less than age of compulsory schooling and no less than 15	Setting the minimum age for entry into work, page 21
2.4	Can specify minimum age of 14 where undeveloped economy and educational facilities	Setting the minimum age for entry into work, page 21
2.5	If minimum age is 14 then must justify or renounce exception in Article 22 reports	
<b>3</b>		
3.1	Minimum age for work likely to jeopardise health, safety or morals of children is 18	Prohibiting, page 43
3.2	Such work determined by laws/regulations, after consultation	Definition of hazardous work, page 41
3.3	Authorise work from 16 after consultation if, health, safety and morals are protected, and receive training	Setting conditions for children doing some forms of hazardous work, page 46 Consultation with social partners, page 43
<b>4</b>		
4.1	Competent authority may, after consultation exclude limited categories of work, where special and substantial problems arise	Limits to response, page 16
4.2	Excluded categories listed in first report with reasons, and provide updates in subsequent reports	
4.3	No exclusion for work likely to jeopardise health, safety or morals of children	



Article Number	Requirement	Related sections of this Guide
<b>5</b>		
5.1	Can limit scope of application, after consultation, if economy and administrative facilities insufficiently developed	Limits to response, page 16
5.2	If limit scope, then must specify economic branches in declaration to ratification for which convention applies	
5.3	Minimum application to: mining and quarrying, manufacturing, construction, electricity, gas and water, sanitary services, transport, storage and communication, and plantations and other agricultural undertakings-excluding family and small scale holdings not regularly employing hired workers.	Limits to response, page 16
5.4	Indicate general position in Article 22 of excluded branches of activity, and progress towards wider application-can formally extend application at any time	
<b>6</b>	<b>Convention does not apply to work done in schools for general, vocational, technical education, training or work done by 14 year olds if integral part of:</b>	Definition of training or education, page 34 Limiting and setting conditions on children's work in connection with training or education, page 35
	(a) Course of education or training	Definition of training or education, page 34 Limiting and setting conditions on children's work in connection with training or education, page 35
	(b) Programme of training	Definition of training or education, page 34 Limiting and setting conditions on children's work in connection with training or education, page 35
	(c) Programme of guidance to facilitate choice of occupation	Definition of training or education, page 34 Limiting and setting conditions on children's work in connection with training or education, page 35
<b>7</b>		
7.1	Light work permitted for persons between 13 to 15 years if:	Definition of light work, page 30 Setting minimum ages and conditions for light work, page 31
	(a) Not harmful to health or development and	
	(b) Not prejudice attendance at school or similar education	

Article Number	Requirement	Related sections of this Guide
7.2	Work permitted for 15 year olds still at school, if meet a and b above.	
7.3	Competent authority to determine activities in 7.1 and 7.2, and prescribe hours and conditions of work	Definition of light work, page 30 Setting minimum ages and conditions for light work, page 31
7.4	If Article 2(4) applies, can substitute 12 and 14 for 13 and 15 in paragraph 1, and 14 for 15 in paragraph 2	
<b>8</b>		
8.1	Permits can be granted by competent authority for artistic performances as exception to Article 2	Artistic performances, page 36 Definition of artistic performances, page 36
8.2	Permits shall limit hours and prescribe conditions of work	Limits and conditions on participation in artistic performances, page 36
<b>9</b>		
9.1	Necessary measures to be taken, including penalties to ensure effective enforcement	Economic and penal sanctions for infringement of the minimum age, page 22
9.2	National laws/regulation to define person responsible for compliance with provisions	Centralizing responsible agency, page 92
9.3	National laws/regulations prescribe registers, documents to be kept by employers, containing ages, birth certificates of person under 18	Strengthening methods of documenting and ascertaining age, page 25

## Relational Table: Worst Forms of Child Labour Convention, 1999 (No. 182)

Article Number	Requirement	Related sections of this Guide
<b>1</b>	<b>Immediate and effective measures for prohibition and elimination of worst forms of child labour</b>	Prohibiting, page 43
<b>2</b>	<b>Child is person under 18</b>	Defining a “child”, page 12
<b>3</b>	<b>Worst forms of child labour:</b>	
	(a) Slavery, trafficking, debt bondage, forced labour, forced recruitment for armed conflict	Defining, prohibiting and otherwise responding to slavery and similar practices, page 51 Trafficking of children, page 53 Children working in debt bondage, page 56 Serfdom, page 57 Other forms of forced or compulsory labour, page 57 Forced child soldiering, page 58
	(b) Prostitution, pornography, pornographic performances	Defining, prohibiting and otherwise responding to children in prostitution, page 64 Defining, prohibiting and otherwise responding to pornography and pornographic performances as they relate to children, page 71
	(c) Use, procuring, offering of child for illicit activities, in particular, production and trafficking of drugs	Defining, prohibiting and penalizing the use, procuring and offering of children for illicit activities, page 75
	(d) Work likely to harm the health, safety or morals of children	Definition of hazardous work, page 41
<b>4</b>		
4.1	Work likely to harm the health, safety or morals of children to be determined by national laws/regulations, after consultation	Definition of hazardous work, page 41
4.2	Competent authority to identify where types of work exist after consultation	Practical action with respect to hazardous work, page 48
4.3	Types of work to be periodically examined, in consultation	Practical action with respect to hazardous work, page 48
<b>5</b>	<b>Design appropriate monitoring mechanisms after consultation</b>	Centralizing a responsible agency, page 92 Involving partners in enforcing and giving effect to policy and law, page 93

Article Number	Requirement	Related sections of this Guide
<b>6</b>		
6.1	Design and implement programmes of action	Gender-specific hazardous work, page 43 Practical action with respect to hazardous work, page 48 Practical action to combat all forms of child slavery and slavery-like practices, page 59 Practical action regarding children in prostitution, page 68 Practical action on involvement of children in illicit activities, page 77
6.2	Programmes designed in consultation	
<b>7</b>		
7.1	Necessary measures for implementation and enforcement, penal sanctions	Using public powers to enforce and give effect to policy and laws, page 98 Using labour inspection to enforce and give effect to policy and law, page 99 Using prosecutorial authority to enforce and give effect to policy and law, page 101 Response to the difficulty of proving cases, page 102
7.2	Take education into account in eliminating child labour, take effective time bound measures to:	Response to children not benefiting from schooling, page 78
	(a) Prevent engagement of children in worst forms of child labour	
	(b) Provide assistance for removal and rehabilitation of children	
	(c) Access to free education, vocational training to children removed from child labour	Ensuring that compulsory education is entirely free of charge, page 86 Establishing the legal responsibility of parents, page 88 Enforcing the compulsory education obligation, page 89 Ordinary enforcement and special inspection, page 89
	(d) Identify and reach out to children at special risk	
	(e) Take account of special situation of girls	
<b>8</b>	<b>International cooperation, assistance to give effect to Convention</b>	Supporting international efforts against slavery and similar practices, page 61 Supporting international efforts against child prostitution, page 70 Supporting international efforts against child pornography and pornographic performances page 74 Supporting international efforts against involving children in illicit activities, page 77



