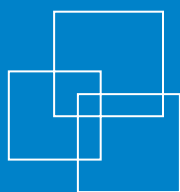




International  
Labour  
Organization

# TACKLING CHILD LABOUR

from commitment  
to action



International  
Programme on  
the Elimination  
of Child Labour  
(IPEC)



# **Tackling child labour: From commitment to action**

International  
Programme on  
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# Executive summary



In June 2012 the International Labour Conference (ILC) will consider two important reports concerning progress in the application of the ILO's Fundamental Principles and Rights at Work (FPRW).<sup>1</sup> The FPRW include the elimination of child labour alongside the right to freedom of association and collective bargaining, elimination of forced labour, and the elimination of discrimination in employment or occupation. These fundamental principles and rights at work are mutually interdependent. Violation of one category of rights at work often has an adverse impact on the respect and realization of the others. Viceversa, recognition, promotion and implementation of one category of rights can have a beneficial impact on the respect and realization of the others.

The ILO's most recent estimate is that some 215 million children across the world are still trapped in child labour. This stark statistic points to a major human rights challenge and one which urgently requires renewed focus and action.

Over the years the international community has developed a framework of international standards which seek to protect children from child labour, in particular the two important ILO Conventions on the subject and more generally the UN Convention on the Rights of the Child (CRC). Whilst some progress is being made in reducing child labour in too many cases the rights contained in these international standards are still not fully applied in practice and enforced.

This Policy note considers the progress of action against child labour with a focus on trends in the way that ILO member States are implementing the ILO Conventions and Recommendations. It draws heavily on the Reports prepared for the International Labour Conference (ILC) together with other recent research. Among the main findings are that:

- The ILO Conventions on child labour are now among the most widely ratified of ILO Conventions. Of the ILO's 183 member States 88 per cent have ratified ILO Convention No. 138 on the minimum age for admission to employment and 95.1 per cent have ratified ILO Convention No. 182 on the worst forms of child labour. Since 1995, the number of ratifications of Convention No. 138 has increased dramatically, from 48 to 162. Following the adoption of Convention No. 182 in 1999 it became the most rapidly ratified ILO Convention, and now has 175 ratifications.
- Despite the high ratification rate there remain significant parts of the world population that are not covered by the Conventions, as some large population countries are yet to ratify. Convention No. 138 covers 70.3 per cent of the world population and Convention No. 182 81 per cent.<sup>2</sup>
- There is growing evidence of efforts to develop policy and programme responses to child labour. Between 1999 and 2009 approximately 70 countries formulated a national policy on child labour.
- To give effect to Convention No. 182 between 2000 and 2009 some 90 National Action Plans (NAPs) were adopted in member States.
- The ILO's Committee of Experts on the Application of Conventions and Recommendations, (CEACR) has noted approximately 50 new legislative prohibitions on child prostitution and a similar number concerning child pornography.

1 ILO: *Fundamental principles and rights at work: From commitment to action* (Recurrent discussion under the ILO Declaration on Social Justice for a Fair Globalization and the follow up to the ILO Declaration on Fundamental Principles and Rights at Work), available at: [www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_176149.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_176149.pdf); and ILO: *Giving globalization a human face*, General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008, Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 1B), ILC, 101st Session, Geneva, 2012, available at: [www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_174846.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_174846.pdf).

2 ILO: *Fundamental principles and rights at work, cit., p. 81.*

- There has been a marked increase in international cooperation and mutual assistance among member States, particularly on issues concerning trafficking.
- In accordance with Convention No. 182 some 108 countries have established national hazardous child labour list, but many more countries have established general prohibitions or are in the process of developing lists.
- Despite some positive developments concerning enforcement of child labour laws, it still appears that few cases concerning child labour make it to the courts. Only 1.5 per cent of reports received by the CEACR concerning child labour contain information on court decisions. This compares with 8 per cent of the CEACR reports on discrimination, 7.8 per cent on forced labour and 5.8 per cent on freedom of association.<sup>3</sup>
- In a significant number of countries there are inconsistencies between the minimum age for admission to employment, and the age set for the end of compulsory schooling. Recent research suggests that only 60 per cent of countries which have specified both these ages have actually aligned them.

Tackling child labour is both an issue of human rights and social justice. While the global community is making progress on ensuring and protecting the right of every child to be protected from child labour, there are also weaknesses in the response and it is clear that progress needs to be accelerated. The ILO Reports point to the need for specific action on the following fronts:

- Universal ratification of the ILO child labour Conventions and all the ILO core Conventions.
- Ensuring a new focus on national policies and programmes to promote an integrated approach to all fundamental principles and rights at work.
- Broadening integrated area based approaches to tackle the root causes of child labour.
- Aligning the minimum age for admission to employment and the age for completion of compulsory schooling.
- Strengthening workplace safety and health for all workers, but with specific safeguards for children between the minimum age for admission to employment and the age of 18 by preparing and/or updating hazardous child labour lists.
- Promoting and strengthening the functioning of institutions and mechanisms aimed at monitoring the effective application and enforcement of fundamental rights at work including protection against child labour, (courts, tribunals, magistrates, labour inspectors and child labour monitoring).
- Continuing development of advocacy and strategic partnerships at international, national and community level and promoting the worldwide movement against child labour.
- Replicating and expanding good practices that have produced sustainable results.

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<sup>3</sup> ILO: *Fundamental principles and rights at work*, cit., p. 47.



# 1. The challenge of child labour from a rights perspective



Among the extensive body of rights at work set by ILO standards, the effective abolition of child labour is recognized by the ILO and the international community as one of the fundamental principles and rights at work. Together with freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, and the elimination of discrimination in respect of employment and occupation these four categories of principles and rights are embedded in the ILO Constitution, are elaborated in ILO Conventions and Recommendations and have been recognised in the the 1998 Declaration on Fundamental principles and Rights at Work and its follow-up. The 2008 Declaration on Social Justice has recognized them as principles that the ILO member States have to respect and promote due to the mere fact of their membership of the ILO. Within the framework of the Decent Work Agenda, all these four fundamental principles and rights have been recognized as both core labour and human rights and enabling conditions for the realization of social justice. Consequently, the continued existence of child labour is an indicator of a major gap in decent work.<sup>4</sup>

The ILO's most recent Global Report on child labour found that some 215 million children across the world are still trapped in child labour, with 115 million in its worst forms.<sup>5</sup> In the age group 5–14 years, almost 153 million children were engaged in child labour. One third of them, 53 million children aged 5–14, were involved in hazardous activities. Whilst there was a decline in child labour in the four year period covered by the report (2004-2008), the overall rate of decline has slowed from the previous four years with an increase in hazardous work among children aged 15-17.

Taking the longer term trend, the ILO's estimates show that among children aged 5-14 there has been a steady and significant downward trend in child labour. Between 2000 and 2008 there was a reduction of almost 20 per cent in the number of those aged 5-14 involved in child labour with the sharpest fall among girls. However the progress in this age group was to some extent offset by a much slower

rate of reduction among older children, those aged 15-17 and employed in hazardous work.

The Global Report highlights that Asia and the Pacific region has the largest numbers of child labourers (113.6 million), followed by Sub-Saharan Africa (65.1 million) and Latin America and the Caribbean (14.1 million). However, in terms of the relative extent, the incidence of child labour is highest in Sub-Saharan Africa, where one in four children and adolescents are child labourers, compared to around one in eight in Asia and the Pacific and one in ten in Latin America and the Caribbean.

The international community has set a target of eliminating the worst forms of child labour by 2016. A Global Conference on Child labour held in The Hague in 2010 established a *Roadmap for action to eliminate the Worst Forms of Child labour by 2016* and progress towards the goal will be reviewed at an Global Conference to be held in Brazil in 2013. With this in mind it is timely for all actors, both at the international and national level, to reflect on the impact of their own activities, and ways and means of tackling child labour.

This Policy note has a particular focus on the progress being made by ILO member States in ratification and application of the ILO's child labour Conventions. It also aims to shed light on how the right to be protected from child labour can benefit from the recognition and enforcement of other fundamental principles and rights at work and public policies which promote social justice. It draws heavily on two reports which are to be considered during the 2012 International Labour Conference. These provide analysis of international progress in the ratification and application of ILO Conventions concerning fundamental principles and rights at work.<sup>6</sup>

4 ILO: *Giving globalization a human face*, cit., p. 147.

5 ILO: *Accelerating action against child labour*. ILO Global report on child labour 2010. Geneva, 2010. Available at: [www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms\\_126752.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_126752.pdf).

6 ILO: *Fundamental principles and rights at work*, cit., p. 147.



## 2. The framework of rights and the supervisory mechanisms



### 2.1 The background to protections for children at the workplace and ILO Conventions Nos. 138 and 182

The situation of children and young persons in relation to the world of work has been at the heart of the ILO's activities and attention since its inception. Article 427 of the 1919 Versailles Treaty which established the ILO Constitution set as one of the methods and principles of special and urgent importance for the new ILO “the abolition of child labour and the imposition of such limitations on the labour of young persons as shall permit the continuation of their education and assure their proper physical development”.

From 1919 onwards and in line with the spirit of Article 427, a number of the early ILO Conventions and Recommendations dealt with working conditions in specific industrial sectors and many reflected concerns over child labour. Standards on the minimum age for admission to employment, night work of young persons and medical examinations of young persons were set. In 1973 the ILO adopted **Convention No. 138 on the minimum age for admission to employment**. The primary objective of Convention No. 138 is the pursuit of a “national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work (...)”.<sup>7</sup> Within this framework the Convention requires States to specify in law a minimum age for admission to employment not less than the age of finishing compulsory education, and which in any case, should not be less than 15 years. A different minimum age for light and hazardous work may be determined under certain conditions aimed at guaranteeing children's right to education and the protection of their health, safety and morals. However the Convention also contains a number

of flexibility clauses aimed at favouring ratification by less-developed countries. For instance, a member country whose economy and educational facilities are insufficiently developed may under certain conditions initially specify a minimum age of 14 years.<sup>8</sup> The link with education reflected the understanding of the ILO's Constituents that the right to be protected from child labour needs to be addressed through the recognition and full enjoyment of other fundamental human rights including the right to education.<sup>9</sup>

The process of ratification of Convention No. 138 started slowly. As late as the end of the 1980s, the reaction to child labour in the world often ranged from indifference to denial.<sup>10</sup> Meanwhile however the ILO's research was shedding light on different dimensions of the problem, generating a greater global awareness. In this way, the ILO promoted an environment which became increasingly more receptive to the need for concerted action against child labour.

In 1998 the ILO Declaration on Fundamental Principles and Rights at Work (FPRW) included the effective abolition of child labour amongst the four fundamental principles and rights which all member States are bound to respect due to their membership, irrespective of their ratification of the relevant Conventions.<sup>11</sup> The Declaration makes it clear that these rights are universal, and that they apply to all people in all States - regardless of the level of economic development. It recognizes that economic growth alone is not enough to ensure equity, social progress and to eradicate poverty. Economic growth needs to go hand in hand with the recognition, promotion and enforcement of human rights such as the FPRW. The subsequent adoption in 1999 of **Convention No. 182 on the worst forms of child labour** implemented such an approach in the field of child labour and aimed to complement Convention No. 138 on the minimum age

<sup>7</sup> Art. 1 of the Convention.

<sup>8</sup> ILO: *Giving globalization a human face*, cit., p. 161.

<sup>9</sup> ILO: *Giving globalization a human face*, cit., p. 163.

<sup>10</sup> ILO: *The end of child labour: Within reach*. ILO Global Report on child labour 2006. Geneva, 2006. Available at: [www.ilo.org/ipecinfo/product/viewProduct.do?productId=2419](http://www.ilo.org/ipecinfo/product/viewProduct.do?productId=2419).

<sup>11</sup> Those four principles are: freedom of association and collective bargaining; the elimination of forced labour, the elimination of child labour; and the elimination of discrimination in respect of employment and occupation.

by identifying the worst forms of child labour to be targeted for immediate action. These are:

- All forms of slavery, or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, as well as forced labour, including forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict.
- The use, procurement or offering of a child for prostitution, for the production of pornography or for pornographic performances.
- The use, procurement or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in relevant international treaties.
- Work which, by its nature or circumstances in which it is carried out, is likely to harm the health, safety or morals of children, such harmful work to be determined by national authorities.



### Box 1 – What is meant by child labour?

Child labour means work that is prohibited for children of certain age groups. It is work performed by children who are under the minimum age legally specified for that kind of work, or work which, because of its detrimental nature or conditions, is considered unacceptable for children and is prohibited.

The emphasis placed by both Conventions on the need to guarantee the right to be protected from child labour reflects the conviction of the ILO's Constituents that childhood is a period of life which should not be devoted to work, but to the full physical and mental development of children.<sup>12</sup> In other words, the ILO, through its Conventions and Recommendations, aims to provide a framework for member States to regulate the types of economic activity which are permissible for children (and appropriate conditions for such work); to protect children's ability to attend and benefit from school and to protect their health, safety and morals.

The ILO's Decent Work Agenda addresses new challenges in the era of globalisation by establishing the

vital role of human rights at work in promoting social justice. Decent work is defined as “productive work in which rights are protected, which generates an adequate income, with adequate social protection.” There are four pillars to the Decent Work Agenda: (1) employment promotion, (2) social protection, (3) social dialogue, and (4) rights at work including the right to be protected from child labour.

In 2008, the International Labour Conference (ILC) adopted the ILO Declaration on Social Justice for Fair Globalization, which calls for a new strategy to sustain open economies and open societies based on social justice, full and productive employment, sustainable enterprises and social cohesion. The Declaration underscores the fact that failure to promote any one of these objectives would hinder progress towards promoting the others by stressing their mutually supportive nature and interdependence.

The 1998 Declaration had also emphasised the interdependent nature of the FPRW, that the violation of one category of rights at work has an adverse impact on the respect and realization of the others. For example if workers cannot exercise freedom of association and engage in collective bargaining, if they have no collective voice, they are not in a position to seek action to remedy the root causes of their vulnerability and to ensure the respect of other fundamental principles such as the right to be protected from child labour. Indeed, situations of forced labour, discrimination and child labour are rarely resolved by individuals acting alone.

Employers' and workers' organizations can make significant contributions towards improving compliance with rights at the workplace, including safeguarding against child labour.<sup>13</sup> Difficulties in organizing and taking collective action are, in most countries, common among rural agricultural workers, domestic workers, indigenous people, and migrants the very groups among which much child labour is rooted.

<sup>12</sup> ILO: *Giving globalization a human face*, cit., p. 148.

<sup>13</sup> ILO: *Labour administration and labour inspection*. Report V, International Labour Conference, 100th Session, 2011, page viii. Available at: [www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_153918.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_153918.pdf).



## Box 2 – Social partners tackling child labour

There are good examples of trade unions and employers' organizations playing a key role in the elimination of child labour in the rural sector.<sup>14</sup> In India for example, in Tamil Nadu and Madhya Pradesh, trade unions and their recently organized rural members are implementing the concept of child labour-free villages through dialogue with local leaders and employers. Many collective agreements are being concluded targeting child labour. Similarly, the Federation of Uganda Employers has set up child labour monitoring committees at the local level, including in the coffee, tea, rice and sugar sectors.<sup>15</sup> Collaboration and alliances are also being formed between trade unions and representative organizations of indigenous people, especially in Latin America. In some countries this has led to the inclusion of indigenous organizations in national committees on the prevention and elimination of child labour.<sup>16</sup>

The Declaration on Social Justice underscores the particular significance of the FPRW as enabling conditions for the realization of the ILO's four strategic objectives. True to this spirit, some States have launched economic and social policies intended to foster synergies between poverty reduction and the extension of fundamental rights to vulnerable groups. In India, the Government has adopted a "convergence approach", which includes the elimination of child labour and forced labour in a broader poverty reduction and rural development strategy through a mix of social security measures, public work programmes and free compulsory education.<sup>17</sup>

Fundamental rights have to be not only recognized legally and mainstreamed in economic and social policies, but also enjoyed effectively in practice. The functioning of institutions and mechanisms to monitor

their effective application and enforce them in case of violation is key. According to the ILO supervisory bodies<sup>18</sup> and the social partners,<sup>19</sup> the effectiveness of these mechanisms and institutions is a crucial challenge in many countries. Preventing and redressing violations of the four categories of FPRW is difficult for a number of reasons. The vulnerability of those affected often prevents them from asserting their rights. State institutions also encounter difficulties in reaching many workplaces where violations occur, such as in the informal economy, in remote rural areas or in private households.

## 2.2 The UN Convention on the Rights of the Child and other international standards

The ILO standards on child labour are part of a broader framework of international human rights instruments. The fundamental principles and rights at work (FPRW) are recognised as human rights in various sources of international law and in several core United Nations human rights treaties.<sup>20</sup> The UN Convention on the Rights of the Child (1989) (CRC) sets out a number of rights including "the right of children to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education or be harmful to the child's health or physical, mental, spiritual, moral or social development" (Article 32). Yet well before the CRC, in 1967, the International Covenant on Economic and Social Rights recognized the right of all children to be protected from economic and social exploitation through the provision of a minimum working age and special protection in the case of hazardous work (Art. 10).

Although children's human rights have been articulated in other international instruments, the CRC was the first legally binding Convention to incorporate the full range of human rights that children are entitled to - civil, cultural, economic, political and social rights.<sup>21</sup>

14 ILO: *Accelerating action against child labour*, cit., para. 144.

15 ILO: *Accelerating action against child labour*, cit., para. 146.

16 ILO: *Fundamental principles and rights at work*, cit., para. 116.

17 ILO: *Accelerating action against child labour*, cit.

18 ILO: *Giving globalization a human face*, cit..

19 In 2011 a significant number of comments submitted by the social partners in response to a questionnaire referred to the lack of effectiveness of the FPRW enforcement mechanisms.

20 ILO: *Fundamental principles and rights at work*, cit., para. 17.

21 The four core principles of the Convention are non-discrimination; devotion to the best interests of the child; the right to life, survival and development; and respect for the views of the child. In its 54 articles and in the three Optional Protocols, it spells out the basic human rights that children everywhere have: the right to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation; to participate fully in family, cultural and social life; and the right to equal access to justice.



The near-universal ratification of the CRC reflects a global commitment to the principles of children's rights. The United Nations General Assembly in 2000 adopted two Optional Protocols<sup>22</sup> to the CRC to increase the protection of children from involvement in armed conflicts and from sexual exploitation, two areas which are also explicitly defined under ILO Convention No. 182 on worst forms of child labour. The two sets of international standards are thus complementing each other.

The **Optional Protocol on the involvement of children in armed conflict** establishes 18 as the minimum age for compulsory recruitment and requires States to do everything they can to prevent individuals under the age of 18 from taking a direct part in hostilities.<sup>23</sup> As at April 2012, 146 countries had signed and ratified this Protocol.

The **Optional Protocol on the sale of children, child prostitution and child pornography** draws special attention to the criminalization of these serious violations of children's rights and emphasizes the importance of fostering increased public awareness and international cooperation in efforts to combat them. It also protects children from being sold for non-sexual purposes—such as other forms of forced labour, illegal adoption and organ donation. It requires punishment for those offering, delivering and accepting children for the purposes of sexual exploitation, transfer of organs or for profit or forced labour.<sup>24</sup> As at April 2012, 156 countries had signed and ratified this Protocol.

The fact that international treaties and conventions recognize children's rights does not mean they have enforceable rights in practice. Rights are mere promises if they are not matched by effective international supervision and domestic enforcement and supervision of those rights at national, state and community levels. This is particularly true in the case of children who are

often dependent on those who may be acting in breach of their rights.

## 2.3 International supervisory bodies

### 2.3.1 Committee on the Rights of the Child

There are a number of mechanisms which have been established to monitor, promote and enforce human rights.<sup>25</sup> As far as children's rights are concerned, the Committee on the Rights of the Child (CRC) is the body of independent experts that monitors implementation of the CRC by its State parties. It also monitors implementation of the Optional Protocols to the Convention. All State parties are obliged to submit regular reports to the Committee on how the rights are being implemented. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of "concluding observations."<sup>26</sup> In the 1990s and early 2000s, the Commission on Human Rights began appointing a number of Special Rapporteurs on specific economic and social rights, including the rights to education, health, housing and food.<sup>27</sup> On 19 December 2011, the UN General Assembly approved a **third Optional Protocol on a communications procedure**, which will allow individual children to submit complaints regarding specific violations of their rights under the Convention and its first two optional protocols. The Protocol opens for signature in 2012 and will enter into force upon ratification by 10 UN Member States.<sup>28</sup>

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22 Optional Protocols usually follow human rights treaties in order to either provide for procedures with regard to the treaty or address a substantive area related to the treaty itself. Optional Protocols are treaties in their own right, i.e. they are open to signature, accession or ratification by countries who are party to the main treaty.

23 See for more information: [www.unicef.org/crc/index\\_protocols.html](http://www.unicef.org/crc/index_protocols.html).

24 See for more information: [www.unicef.org/crc/index\\_protocols.html](http://www.unicef.org/crc/index_protocols.html).

25 One signpost of this trend was the establishment of the UN Committee on Economic, Social and Cultural Rights ("CESCR") in 1985 to consider state reports under the International Covenant on Economic, Social and Cultural Rights ("ICESCR"). The International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families entered into force in 2003, and it also has a Committee to monitor the compliance of state parties. Most recently, on December 10, 2008, the UN General Assembly unanimously adopted the Optional Protocol to the ICESCR, which provides a mechanism to bring complaints before the CESCR.

26 See for more information: [www2.ohchr.org/english/bodies/crc](http://www2.ohchr.org/english/bodies/crc).

27 See among others the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Rapporteur on trafficking in persons, especially in women and children, the Special Representative for Children and Armed Conflict and the Special Representative on Violence against Children.

28 See for more information: [www2.ohchr.org/english/bodies/crc](http://www2.ohchr.org/english/bodies/crc).

### 2.3.2 The ILO's supervisory mechanisms

In relation to monitoring compliance with the relevant international labour standards the ILO's regular supervisory mechanisms are the Committee of Experts on the Application of Conventions and Recommendations (CEACR),<sup>29</sup> the International Labour Conference Committee on Freedom of Association (CFA) and the International Labour Conference Committee on the Application of Standards. Once a country has ratified an ILO Convention, it is obliged to report regularly on measures it has taken to implement the Convention. Every two years governments must submit reports detailing the steps they have taken in law and practice to apply any of the eight fundamental and four priority Conventions they may have ratified, including Convention Nos. 138 and 182.<sup>30</sup>

The annual report of the Committee of Experts is submitted to the International Labour Conference (ILC), where it is examined by the Conference Committee on the Application of Standards. A standing committee of the Conference, the Conference Committee is made up of government, employer, and worker delegates. It examines the report in a tripartite setting and selects from it a number of observations for discussion. The establishment of this list of individual cases takes into account several criteria, such as, among others, the nature of the specific situation, the seriousness and persistence of shortcomings in the application of the Convention, and the need for geographic balance. The governments referred to in these comments are invited to

respond before the Conference Committee and to provide information on the situation in question. In many cases the Conference Committee draws up conclusions recommending that governments take specific steps to remedy a problem or to invite ILO missions or technical assistance.<sup>31</sup> Since 2000 the list of countries invited to supply additional information on the application of ILO Convention No. 138 includes Azerbaijan, Central African Republic, Kenya, Malaysia, Ukraine, United Arab Emirates, and Zambia. Countries invited to supply additional information on the application of ILO Convention No. 182 include Burundi, China, Democratic Republic of the Congo, Gabon, Mexico, Morocco, Niger, Paraguay, Philippines, Qatar, Russian Federation, United States and Uzbekistan.

Each year the Committee of Experts on the Application of Conventions and Recommendations publishes also an in-depth study on member States' national law and practice, on a subject chosen by the Governing Body of the ILO. These general surveys are established on the basis of reports received from member States. They allow the Committee of Experts to examine the effects of Conventions and Recommendations, to analyse the difficulties indicated by governments as raising obstacles to their application, and to identify means of overcoming these difficulties. In 2012 the survey concerns the FPRW.

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29 The Committee of Experts was set up in 1926 to examine the growing number of government reports on ratified conventions. Today it is composed of 20 eminent jurists appointed by the Governing Body for three-year terms. The Experts come from different geographic regions, legal systems and cultures. The Committee's role is to provide an impartial and technical evaluation of the state of application of international labour standards.

30 Labour Inspection Convention, 1947 (No. 81); Employment Policy Convention, 1964 (No. 122); Labour Inspection (Agriculture) Convention, 1969 (No. 129), and Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

31 ILO: *A dynamic and impact built on decades of dialogue and persuasion*. The Committee on the Application of Standards of the International Labour Conference, Geneva, 2011. Available at: [www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@normes/documents/publication/wcms\\_154192.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@normes/documents/publication/wcms_154192.pdf).





# 3. Important trends and developments



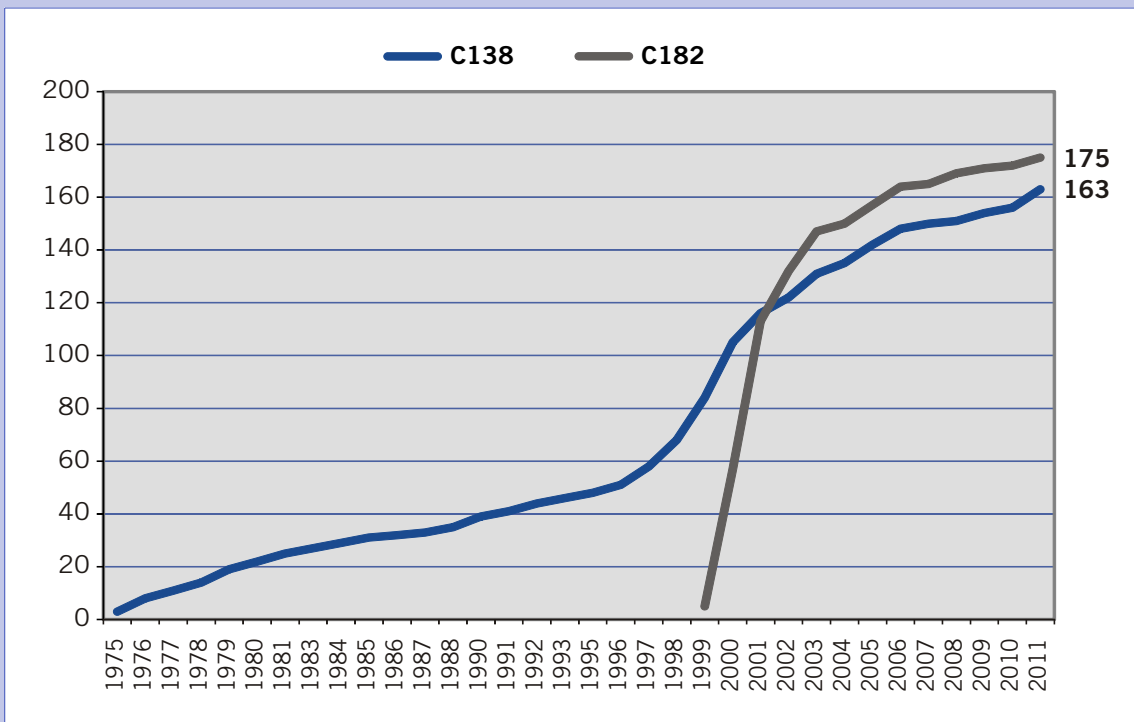
## 3.1 Ratification and implementation of child labour Conventions

The high rate of ratification of the child labour Conventions among the ILO's 183 member States points to the growing worldwide acceptance of the importance of tackling child labour. Since 1995, the number of ratifications of ILO Convention No. 138 has increased dramatically, from 48 to 163. Following the adoption of Convention No. 182 in 1999, this Convention became the most rapidly ratified ILO Convention with 175 member States having now ratified the Convention.<sup>32</sup>

However despite the high ratification rate there remain significant parts of the world population that are not covered by the Conventions with some large population countries still to ratify the Conventions. Convention No. 138 covers 70.3 per cent of the world population and Convention No. 182 covers 81 per cent.<sup>33</sup>



**Box 3 – Ratifications of ILO Conventions Nos. 138 and 182**



<sup>32</sup> Ratifications at April 30, 2012.

<sup>33</sup> ILO: *Fundamental principles and rights at work*, cit., p. 81.

### 3.2 ILO Convention No. 138 on the minimum age for admission to employment: Application in law and practice

#### *National policies*

An important development noted by the CEACR has been the adoption of **national policies** on child labour. Between 1999 and 2009, **approximately 70 countries formulated a national policy on child labour**.<sup>34</sup> These national policies are then pursued through the development and implementation of national action plans, national programmes and strategies on child labour. In some countries, policies to combat child labour are incorporated into broader policies and programmes on children and into ILO Decent Work Country Programmes (DWCPs).<sup>35</sup>

#### *Setting of the minimum age and scope of coverage*

Another significant development in many countries has been the creation of a **legislative framework** in conformity with the international standards. Legislation stipulating the minimum age for admission to employment or work has been enacted in the large majority of countries. Of the 163 countries that have ratified Convention No. 138, 73 countries, have set the general minimum age for admission to employment or work at 15 years of age, and 41 member States have decided to go beyond the obligation laid down in Article 2(3) in fixing the general minimum age at 16 years. 49 have set the minimum age at 14.



#### **Box 4** – The minimum age for admission to employment among the member States ratifying Convention No. 138

73 member States – Minimum age set at **15**

41 member States – Minimum age set at **16**

49 member States – Minimum age set at **14**

Many countries have now adopted legislation applying the Convention to previously excluded categories, such as work in family enterprises, work carried out in small-scale agriculture and domestic work. This is an important trend given that globally two thirds of child labourers in the age group 5-17 years old are unpaid family workers and another 5 per cent of children in this age group perform work on their own account.<sup>36</sup> Nevertheless, in many countries the legislation giving effect to the Convention applies only to formal labour relationships between an employer and an employee, meaning that children working outside formal labour relationships are excluded from the provisions giving effect to the Conventions. This includes children working on their own account, in the informal economy or on an unpaid basis. Addressing the issue of child labour in the informal economy, in both rural and urban areas, is essential to the application of the Convention.<sup>37</sup>

In several countries **domestic work** often remains excluded from the scope of application of the Convention. This is particularly problematic, as an estimated 15.5 million children are engaged in domestic work worldwide. Around the world, child domestic work is largely carried out by girls, who are easily isolated and have little protection or social support. Many can be vulnerable to physical and sexual assault. Due to this isolation, reaching out to girls engaged in domestic work can be extremely difficult.<sup>38</sup>

<sup>34</sup> ILO: *Accelerating action against child labour*, cit., fig. 1.10.

<sup>35</sup> ILO: *Giving globalization a human face*, cit., p. 151. ILO Decent Work Country programmes have been established as the main vehicle for delivery of ILO support to countries. DWCPs have two basic objectives. They promote decent work as a key component of national development strategies. At the same time they organise ILO knowledge, instruments, advocacy and cooperation at the service of tripartite constituents in a results-based framework to advance the Decent Work Agenda within the fields of comparative advantage of the Organization. Tripartism and social dialogue are central to the planning and implementation of a coherent and integrated ILO programme of assistance to constituents in member States. See for more information: [www.ilo.org/public/english/bureau/program/dwcp/index.htm](http://www.ilo.org/public/english/bureau/program/dwcp/index.htm).

<sup>36</sup> ILO: *Giving globalization a human face*, cit., p. 152.

<sup>37</sup> ILO: *Fundamental principles and rights at work*, p. 39; and ILO: *Giving globalization a human face*, cit., p. 153 ff.

<sup>38</sup> ILO: *Giving globalization a human face*, cit., p. 159.



## Box 5 – Tackling the issue of child domestic workers

In adopting Convention No. 189 and Recommendation No. 201 on Decent Work for Domestic Workers, the International Labour Conference gave a clear message: Domestic workers, like other workers, have the right to decent working and living conditions. With regard to children, member States are required to set a minimum age for domestic workers. This minimum age must be consistent with the ILO Convention No. 138 on the minimum age and the ILO Convention No. 182 on the worst forms of child labour and must not be lower than that established for workers generally. Convention No. 189 and the accompanying Recommendation No. 201 draw attention to the need to identify hazardous domestic work and to prohibit such work for children under the age of 18.

Under a new global project launched in 2011 IPEC is supporting work in ten countries to strengthen protection for child domestic workers. The work will include support for formulation of regulatory and policy frameworks to protect child domestic workers.

### Education

During the elaboration of Convention No. 138, emphasis was placed by the tripartite constituents on the close **relationship between education and the minimum age for admission to employment or work** bearing in mind that depriving children of opportunities for education and training condemned them to remain unskilled and thus perpetuated the poverty of a society.<sup>39</sup> Article 2(3) of the Convention states that the minimum age “shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.”<sup>40</sup> In fact, where there are no legal requirements establishing compulsory schooling, there is a greater likelihood that children under the minimum age will be engaged in child labour.<sup>41</sup>

The CEACR has highlighted the importance of adopting legislation providing for compulsory education up to the minimum age for admission to employment or work. Sometimes the age of completion of compulsory schooling is higher than that of the general minimum age for admission to employment or work. In this situation children may be encouraged to drop out of school as children required to attend school may also be legally authorized to work. In such cases, the CEACR calls on the governments concerned to take the necessary measures to raise the general minimum age in order to link it with the age of completion of compulsory schooling in conformity with the Convention.<sup>42</sup>

In other countries, the age of completion of compulsory education is lower than the minimum age for admission to employment or work. Although this situation does not contravene the Convention, if compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum during which children start working at an age below the minimum age.<sup>43</sup>

Recent research suggests that only 60 per cent of States that have fixed both a **minimum age of employment and age for the end of compulsory education** have aligned the two ages.<sup>44</sup> Of 98 States analysed that had fixed both a minimum age for employment, and an age for the end of compulsory education the research found that 58 had aligned the ages, in 17 cases the end of compulsory education was below the minimum age of employment and in 23 cases the end of compulsory education was higher than the minimum age of employment.<sup>45</sup>

The lack of access to basic education for so many children remains a key challenge in tackling child labour, particularly in rural areas. The majority of working children, some 60 per cent are found in agriculture, mostly in small-scale farming and family farms, but also in commercial agriculture. Due to the various modalities in which children work in agriculture, there is no uniform solution for the effective application of the Convention to this sector, but implementing programmatic measures,

39 ILO: *Giving globalization a human face*, cit., p. 163, and ILO: Record of proceedings, ILC, 57th Session, Geneva, 1972 (Appendix IV: Minimum Age for Admission to Employment (first discussion)), para. 8, p. 537.

40 Paragraph 4 of Recommendation No. 146 reinforces this principle by advocating that full-time attendance at school or participation in approved vocational orientation or training programmes should be required and effectively guaranteed up to an age at least equal to that specified for admission to employment.

41 ILO: *Giving globalization a human face*, cit., pp. 163-164. Paragraph 4 of Recommendation No. 146 reinforces this principle by advocating that full-time attendance at school or participation in approved vocational orientation or training programmes should be required and effectively guaranteed up to an age at least equal to that specified for admission to employment.

42 ILO: *Giving globalization a human face*, cit., pp. 164-165.

43 ILO: *Giving globalization a human face*, cit., pp. 164-165.

44 Melchiorre, A. and Atkins, E.: *At what age?... are school-children employed, married and taken to court?* Right to Education Project. London, 2011, p. 21.

45 Melchiorre, A. and Atkins, E.: *At what age?...*, cit., p. 21.

such as strengthening the education system, in rural areas can play an important role.<sup>46</sup>

The most recent data from the Education for All Global Monitoring Report suggests that 67 million primary school aged children and a similar number of junior secondary age children are not enrolled in school. At the same time many of those who are enrolled are not attending on a regular basis often because the education is of poor quality due to underfunding. The most important step that can be taken to tackle child labour is to ensure the provision of free, compulsory and quality education. While tuition fees for basic education may be provided free of charge, parents of students are often required to pay other fees, such as books, uniforms, and transport and supplies.

Some member States have taken measures to remove school fees and have seen significant increases in enrolment. In addition a number of countries have implemented conditional cash transfer (CCT) programmes which provide grants to poor households with children on the condition, inter alia, of their children's school attendance. Examples include social transfer programmes explicitly targeting child labour, such as Nicaragua's Red de Protección Social, the Bono de Desarrollo Humano in Ecuador and in Colombia where the CCT programme *Familias en acción* provides grants to poor households with children, on the condition, inter alia, that children aged between 7 and 18 attend no less than 80 per cent of school classes during the school year.<sup>47</sup>

### Light work

Not all economic activity of children is prohibited by law and thus considered to be child labour. In an effort to take into consideration the many instances of countries where children below the minimum age for admission to employment or work may participate in economic activities, Article 7 of the Convention provides that national laws or regulations may permit the employment or work of persons 13–15 years of age on **light work** which is not likely to be harmful to their health or development, and 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.<sup>48</sup>



### Box 6 – Access to Education – A key step in ensuring protection against child labour

In Brazil, approximately 60 per cent of children aged 7-14 years old were attending school in the 1960s. The Constitution of 1988 made eight years of education compulsory, (subsequently extended to 9 years in 2006), establishing a public commitment to universal education. Following on from the 1<sup>st</sup> Education for All Conference in Jomtien, Brazil adopted an Education for All Plan (1993-2000) and became firmly committed to the goal of universal primary education. Through a range of central and decentralised programmes, substantial investment and civil society mobilisation, primary school enrolment rates rose dramatically, particularly in the poorer States, and by 1999 had reached 96 per cent. At the same time as this drive towards universal primary education, the Brazilian government adopted a new Statute on Children and Adolescents, which stated that child labour is incompatible with the right to education. The National Programme for the Elimination of Child Labour (PETI) was designed to provide monthly allowances to poor families per child attending school regularly. Combined with after-school programmes and other measures, the incidence of child labour has fallen dramatically.

Mauritius is another example of a country where progress on access to education, combined with social security coverage, has significantly reduced the incidence of child labour. The country has achieved 95 per cent enrolment rate at primary school (girls at 96 per cent) and 73 per cent at secondary school (with girls at 77 per cent). The government has invested heavily in education and social protections. Education is free from primary to higher education and there is a free medical system, a non-contributory pension scheme for people over 60, and pensions for disabled, survivors, and the unemployed from low income families. There are also strong social dialogue mechanisms and tripartite bodies. While the country faces challenges related to structural unemployment, the ageing population and the costs of social protections, it remains an example of what can be achieved with the political will to invest in education.

46 ILO: *Giving globalization a human face*, cit., pp. 157-158.

47 ILO: *Fundamental principles and rights at work*, cit., p. 15.

48 The ages of 12-14 can be set for light work if the minimum age of employment is set at 14.



While member States are not required to do so, adopting legislation regulating light work for children under the minimum age for admission to employment or work is encouraged to ensure that children who in practice work under the minimum age are better protected.

Many countries have availed themselves of the option provided by Article 7(1). Where the general minimum age specified is 15, member States have generally indicated a minimum age of 13 years for light work.<sup>49</sup> Some member States have specified a minimum age for admission to light work of 14, and not 13 years, even if their general minimum age for admission to employment is 15 years.<sup>50</sup> Where the general minimum age is higher (16 years), member States have often accordingly indicated a higher minimum age for light work, that is to say 14 years.<sup>51</sup>

### **Hazardous child labour**

There has also been heightened activity to prevent the engagement of children in **hazardous child labour**. Under ILO Convention No. 182 hazardous work is considered to be a worst form of child labour. Both Convention No. 182 and Article 3 of Convention No. 138 provide that 18 is the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons. These types of employment or work must be determined by national laws or regulations or by the competent authority after consultation with employers' and workers' organizations. The issues surrounding the types of hazardous work and their determination will be discussed in the next section on Convention No. 182. It should be mentioned that Convention No. 138 offers yet another flexibility clause. Article 3(3) sets out conditions under which certain types of employment or work may be performed as from the age of 16 years, provided certain strict conditions are met so that the work could not be considered hazardous.

## **3.3 ILO Convention No. 182 on the worst forms of child labour: Application in law and practice**

In some contexts it is recognized that the effective abolition of all child labour is a long term objective which can be difficult to reach in the absence of economic and social development. The adoption of ILO Convention No. 182 was considered necessary because there was a consensus that action against certain forms of child labour –the worst forms- cannot wait and must be tackled as a matter of urgency. An indication of this consensus is the rapid and widespread ratification of ILO Convention No. 182.

Since the Convention calls for not only the prohibition of the worst forms of child labour, but also for their elimination, its full implementation requires significant **programmatic measures**. A positive development is the formulation of national action plans to combat the worst forms of child labour. Between 2006 and 2009, more than **90 national action plans** were adopted in member States.<sup>52</sup>

Consistent with the approach of Convention No. 182 many countries have introduced **time-bound measures** within the context of time-bound programmes (TBP). These programmes are composed of integrated policies and measures to prevent and eliminate a country's worst forms of child labour within a defined period of time, usually ranging from five to 15 years. They seek to address the root causes of child labour, linking action against child labour with the national development effort, with particular emphasis on economic and social policies to combat poverty and to promote universal basic education and social mobilization.<sup>53</sup> Building on this approach which emphasises programme integration, IPEC's country level programme has focussed increasingly on an integrated area based approach linking the elimination of child labour with broader programming within the context of the ILO's Decent Work Country Programmes and other national development frameworks.

### **Commercial sexual exploitation of children**

The ratification of Convention No. 182 has yielded **positive legislative results** particularly with regard to government action in the area of legislation criminalizing the trafficking of children for purposes of labour or economic exploitation, prohibiting the use, procuring or offering of a child for the purpose of prostitution and

49 ILO: *Giving globalization a human face*, cit., p. 171.

50 ILO: *Giving globalization a human face*, cit., p. 171. Madagascar – CEACR, direct request, 2008 (the Committee took note of the Government's information with interest); and Turkey – CEACR, direct request, 2006.

51 ILO: *Giving globalization a human face*, cit., pp. 170-175.

52 ILO: *Giving globalization a human face*, cit., p. 188.

53 ILO: *Giving globalization a human face*, cit., pp. 199-200.

combating child sex tourism. Between 1999 and 2009, the CEACR noted approximately **50 new legislative prohibitions on child prostitution**. Moreover, since the ratification of the Convention several member States have amended their existing legislation concerning the prostitution of children to be in conformity with the Convention. Again, between 1999 and 2009, the CEACR noted the adoption of nearly **50 legislative prohibitions related to child pornography**.<sup>54</sup>

The CEACR has also observed a positive trend of countries enacting legislation to combat child sex tourism. **Child sex tourism** is a difficult problem to address, as perpetrators are not citizens of the State in which the offence is committed, making prosecution difficult. However, many countries have adopted legislation which permits the punishment of national citizens who engage children in prostitution outside the national territory, with a view to combating the phenomenon of citizens travelling to other countries to take advantage of weaker legislation or enforcement regarding the commercial sexual exploitation of children. For instance, the Crimes Amendment Act of 2004 in New Zealand stipulates that the prohibition on engaging a child in prostitution applies to sexual conduct with children and young people outside the country. In Suriname, the Penal Code was amended in 2009 to provide that sexual offences committed with a person under 18 outside the country are punishable within Suriname. In Spain, the Penal Code provides for the prosecution of Spanish nationals and residents of Spain if they commit an offence in another country relating to the commercial sexual exploitation of children.<sup>55</sup>

### **Trafficking**

Legislative action against trafficking has increased significantly. After the adoption of the Convention, many countries have enacted legislation to prohibit the worst forms of child labour and punish the perpetrators, including those involved in trafficking of children under 18 years of age. This reflects a real commitment to combat a problem that appears to on the increase in some parts of the world.<sup>56</sup>

While the elimination of poverty is a necessary precondition to eradicate trafficking, it is not sufficient. Only a holistic approach to combating the trafficking of children may give the desired result of eradicating the problem. One illustration of this is the case of Qatar,

where the Government's legislative, practical and rehabilitation measures have led to the eradication of the trafficking of children to the country for their use as camel jockeys. The CEACR has noted that, prior to the adoption of Law No. 22 of May 2005 on the import, employment, training and participation of children in camel racing, there were between 200 and 300 children from 6 to 13 years of age (all from Sudan) used in camel racing and exposed to serious injuries. It has noted that since the promulgation of Law No. 22 of 2005, and the adoption of a number of practical measures, there has been no recourse by camel owners to using children as camel jockeys. In particular, the Government started to manufacture robots to replace camel jockeys, which have become popular that even camel owners in other Gulf Cooperation Council countries, such as the United Arab Emirates, Kuwait and Oman, are buying them. The Government also adopted a number of rehabilitation measures aimed at assisting former child camel jockeys and providing them with medical treatment for poor health or injuries sustained before returning them to their country. The CEACR considered the developments in Qatar concerning the use of robot camel jockeys to be a case of good practice.<sup>57</sup>

The sale, trafficking and the commercial sexual exploitation of children has been one of the main issues of **international cooperation and mutual assistance among member States**. This can be highlighted as a significant trend facilitating the effective application of the Convention both inside and outside a State's own national territory. Several countries have adopted regional cooperation agreements or concluded multilateral or bilateral memoranda of understanding to reduce the flow of children being trafficked across borders and allow for an exchange of information in order to monitor the actions of traffickers.<sup>58</sup> In West Africa, for example, a project was undertaken to mobilize sub-regional policy-makers and improve sub-regional cooperation for the elimination of the worst forms of child labour in all 15 Member States of the Economic Community of West African States (ECOWAS). This is an important development as the Convention's geographical scope of application is not explicitly addressed in Convention No. 182, unlike that of Convention No. 138.<sup>59</sup>

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54 ILO: *Giving globalization a human face*, cit., p. 216.

55 ILO: *Giving globalization a human face*, cit., p. 223.

56 ILO: *Giving globalization a human face*, cit., p. 193.

57 ILO: *Giving globalization a human face*, cit., p. 198.

58 ILO: *Giving globalization a human face*, cit., p. 255 ff.

59 ILO: *Giving globalization a human face*, cit., p. 190.



### Box 7 – Tackling child labour in the Mekong sub-region

At the level of the Mekong sub region, an ILO project has been engaged in supporting the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT). The initiative is a synchronized anti-trafficking response of 6 Mekong countries, Cambodia, China, Lao PDR, Myanmar, Thailand and Viet Nam - led by the respective governments, and with the UN Inter-Agency Project (UNIAP) serving as its secretariat.

An Inter-ministerial Meeting in Hanoi (2005) adopted a COMMIT Ministerial Declaration which carries significant provisions on: (a) prevention measures, including, among others, action on labour exploitation; (b) references to the ILO Convention Nos. 29 and 182; (c) the value of community prevention mechanisms; (d) the necessity of consultations with those affected. While the accompanying Sub-regional Action Plan (SPA) was short on preventive measures and heavily influenced by security and crime control concerns, the second SPA (2008-2010) which was endorsed in the Inter-Ministerial Meeting in Beijing in December 2007, had a stronger focus on preventive measures and endorsed several of ILO's specific approaches and models.

#### Forced and bonded labour

Around 5.7 million children are in forced and bonded labour, representing around half of all forced and bonded labour victims. Several member States have constitutional or legislative prohibitions against the forced labour of children, and this prohibition may encompass bonded labour.<sup>60</sup> For example, the Act on Special Protection against Child Abuse, Exploitation and Discrimination in the Philippines prohibits debt bondage and serfdom of children under 18 years. The Criminal Code in Australia also explicitly prohibits debt bondage and it is an aggravated offence when the victim is under 18 years of age. Despite the prohibitions in national law, the problem of child bonded labour persists in practice.

In some countries children are particularly affected by forced labour in the context of domestic work and sometimes compulsory labour within the school system.

The CEACR has observed the practice of the forced mobilization of school children in several European

countries where children are removed from school and made to work during school hours. Participation in these programmes is mandatory, children may face fines for working too slowly or failing to meet production quotas, and such work may also have a negative impact on performance in school. While such mass mobilization often occurs during the harvest season (particularly in the cotton harvest), programmes may also contract out classes of students to work in factories in labour-intensive unskilled tasks for long periods of time. Another form of forced labour through educational institutions observed by the CEACR is a phenomenon found in some West African countries known as “talibé” children. These are children who study in Koranic schools but are often made to engage in street begging.



### Box 8 – Bonded child labour in brick kilns in Afghanistan

*Buried in Bricks: A Rapid Assessment of Bonded Labour in Brick Kilns in Afghanistan* is a pioneering attempt to provide a better understanding of the dynamics of bonded labour in brick kilns in two provinces of the country, Kabul and Nangarhar. This study, for which IPEC was the major source of technical and financial support, found that a majority of the workers (56 per cent) in the brick kilns surveyed are children of age below 18 years, with almost one-half (47 per cent) being aged under 14 years. While almost all (98 per cent) adult workers are men, young girls work alongside their brothers and fathers till they reach puberty. Most children begin working when 7 or 8 years old, and about 80 per cent of 9 year old children start working to help their families. Consequently, they do not acquire the skills necessary to break out of bonded labour. The report reveals that the brick kilns rely almost entirely on debt bondage, and workers and their families are tied to a kiln by the need to pay off loans taken (as advances) for basic necessities, and expenses on medical care, weddings and funerals. It found that subsistence needs force families to take repeated loans, often paying for a winter's food with a loan that requires them to spend an entire season to pay back. Over 64 per cent of the surveyed families had worked in brick kilns for 11 years or more, with over 35 per cent having worked for 21 years or more.<sup>61</sup>

60 ILO: *Giving globalization a human face*, cit., p. 201.

61 ILO: *Buried in bricks: A rapid assessment of bonded labour in brick kilns in Afghanistan*. ILO Office in Kabul. Available at: [www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_172671.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_172671.pdf)

## ***Forced or compulsory recruitment of children for use in armed conflict***

An important development in a number of countries is new legislation setting a minimum age for **compulsory recruitment into national military service** at 18 years old or even beyond. The legislation in some countries goes further than the requirements of the Convention by prohibiting both the compulsory and voluntary recruitment of children under 18 years of age in the armed forces or armed groups. For example, in Gabon, enlistment in the armed forces is voluntary and cannot take place before the age of 20 years. Further, some countries, including the Central African Republic, Sri Lanka, and United Republic of Tanzania, have recently adopted or amended legislation to prohibit the forced or compulsory recruitment of children under 18 years of age for use in armed conflict.<sup>62</sup>

While the vast majority of countries have adopted or amended legislation to prohibit the forced or compulsory recruitment of children under 18, children are still being recruited and forced to join national armed forces or illegal armed groups in practice. In a number of countries in the African region, although the regular armed forces have committed themselves to stop recruiting children in their ranks, children continue to be recruited and used by armed groups. The CEACR has observed that certain member States from other regions are still having trouble controlling the forced recruitment of children by rebel groups (for example, in Iraq). In other countries the situation is even more alarming, as all parties to the armed conflict, including the government armed forces, are using child soldiers (for example, in Chad). In March 2012 the International Criminal Court (ICC) reached a very important decision in the case of Congolese warlord Thomas Lubanga Dyilo for his role in the war crimes of enlisting and conscripting children and using them to participate actively in hostilities in the Democratic Republic of the Congo during 2002 and 2003. This first-ever ruling of this nature reminds all armed groups that enslave and brutalize children that impunity is not tolerated.<sup>63</sup> The decision should encourage governments to take immediate and effective measures to put a stop to the forced recruitment of children under 18 years of age by armed groups and/or armed forces and to ensure where required thorough investigations and robust prosecutions.<sup>64</sup> In this regard, ILO Convention No. 182 and the ILO's supervisory mechanisms

recall that children associated with armed forces and groups must be treated as victims rather than offenders.

The CEACR has observed on many occasions that children in armed conflict are not only used as fighters or for taking direct part in hostilities. Some children are also used to support the war efforts, or may combine all these roles at the same time. They are generally used in supportive roles, such as porters, spies, cooks or messengers, and girls are often abducted for sexual purposes. Although these roles do not fall directly within the scope of the prohibition of forced or compulsory recruitment of children under 18 for use in armed conflict, the CEACR has examined them under the category of slavery and forced labour. Where the CEACR observes that children are being abducted by armed groups and forced to provide work and services, as well as becoming sex slaves, it strongly urges the governments of the countries concerned by this situation to take effective and time-bound measures to stop the practice.<sup>65</sup>

Despite the positive achievements obtained in many countries, the **effective reintegration of former child soldiers** into civil society remains a major challenge. Indeed, observing that these children commonly face major obstacles to their social integration and are therefore at high risk of being re-recruited by armed forces, the CEACR has stressed the importance of ensuring that children receive appropriate assistance for their rehabilitation and social integration.<sup>66</sup> A significant number of countries have launched national programmes for disarmament, demobilization and reintegration of former combatants, including **child soldiers**, with the assistance of United Nations agencies including the ILO. These programmes, which promote the release of recruited children or provide reintegration and rehabilitation services for former child combatants, have produced notable results in terms of the number of children released and rehabilitated through family reunification, the establishment of rehabilitation and educational centres and the provision of psychological assistance.<sup>67</sup>

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62 ILO: *Giving globalization a human face*, cit., p. 209 ff.

63 Available at: [www.un.org/apps/news/story.asp?NewsID=41537&Cr=ICC&Cr1](http://www.un.org/apps/news/story.asp?NewsID=41537&Cr=ICC&Cr1).

64 ILO: *Giving globalization a human face*, cit., p. 211.

65 ILO: *Giving globalization a human face*, cit., pp. 210-211.

66 ILO: *Giving globalization a human face*, cit., p. 215.

67 ILO: *Giving globalization a human face*, cit., p. 213.





### Box 9 – ILO response to forced labour and under-age recruitment in Myanmar

Myanmar has not yet ratified Convention No. 182, but this case highlights the nexus between the worst forms of child labour and the effective elimination of forced labour. Within the framework of the complaints mechanism established in the Supplementary Understanding between the ILO and the Government of Myanmar in 2007, 210 formal complaints had been received at the time of the 310th Session of the Governing Body (March 2011). Of these complaints, 155 (75 per cent) related to under-age recruitment, and particularly the trafficking of children for forced labour and military forced labour.

Since February 2007, a total of 208 under-age recruits have been released or discharged in response to the Supplementary Understanding. Moreover, action under the military disciplinary code is now routinely taken with regard to military personnel deemed responsible for the recruitment of minors.<sup>68</sup>

### Illicit activities

Several countries have also adopted legislative and other measures to prevent the involvement of children in illicit activities, particularly drug trafficking. Specific measures have also been adopted in most of the countries concerned to address the situation of street children, who can be particularly vulnerable to becoming involved in illicit activities. However, some of these measures continue to be inadequate and fail to ensure the rehabilitation and social integration of child victims.<sup>69</sup>

### Hazardous child labour

The large majority of children in the worst forms of child labour – more than 90 per cent – are involved in **hazardous child labour**. In order to designate work deemed hazardous a key step required is the determination of a national hazardous child labour list, which should be implemented within the context of national occupational safety and health programmes and systems.<sup>70</sup> It is also crucial that these lists are regularly reviewed and updated. They should be specific to tasks prohibited to children. The process of establishing the list is vital to enable government and employers' and workers' organizations to work together, not only in deciding on the elements to be included, but also in assessing priorities for action.<sup>71</sup>

A positive trend that has emerged from the CEACR's comments is that a great number of countries have adopted legislation to prohibit children under 18 years of age from carrying out specific forms of hazardous work.<sup>72</sup> Data available to IPEC suggests that by April 2011, **108 countries had established hazardous child labour lists but many more countries had general prohibitions or were in the process of developing lists.**

68 ILO: *Giving globalization a human face*, cit., p. 214.

69 ILO: *Giving globalization a human face*, cit., pp. 225-229.

70 ILO: *Fundamental principles and rights at work*, cit., para. 65.

71 IPEC: *Children in hazardous work: What we know, What we need to do*. ILO, Geneva, 2011. Available at: [www.ilo.org/ipecc/Informationresources/WCMS\\_156475/lang--en/index.htm](http://www.ilo.org/ipecc/Informationresources/WCMS_156475/lang--en/index.htm).

72 ILO: *Giving globalization a human face*, cit., p. 229 ff.



## Box 10 – Some examples of work included in national hazardous child labour lists <sup>73</sup>

- Work in construction and welding, mines and quarries, or the asphalt industry;
- work underground, underwater, at dangerous heights or in confined spaces;
- demolition work, the digging of underground galleries, terracing in narrow and deep excavations and work in sewers;
- work in petroleum and the extraction of natural resources, or work in ships;
- work involving the use of compressed air, including pressure chambers and diving;
- hazardous work in domestic or household service; work in the agricultural sector which exposes children to dangerous conditions, to pesticides or insecticides, work in cash crops;
- work in zoos or parks containing wild or poisonous animals, work involving incineration or butchery, work in abattoirs or tanneries;
- work associated with animal husbandry, such as milking cows, feeding cattle and cleaning stables/stalls/pens, or work in a silo or storage for storing crops;
- forest firefighting and forest fire prevention occupations, timber tract occupations, forestry service occupations, logging occupations, and occupations in the operation of any sawmill, lathe mill, shingle mill, or cooperage stock mill;
- work involving the use of tractors or other moving vehicles, such as industrial trucks, lifts and forklift trucks, forestry machinery, hand-operated motorized tools, rotary cultivators, mowers, fine-slicing machinery or snow blowers;
- work with and maintenance of dangerous machinery, equipment and tools, such as machinery with rapidly moving blades, machinery making stamping movements, machinery with open cylinders or screw blades, mixing, milling, breaking, chopping machinery, skinning machinery, grating machinery and centrifuges, motorized chainsaws and hedge cutters, nail and bolt pistols, machines for cleaning, painting, anti-corrosion or similar treatments;
- equipment involving exposure to high temperatures;
- work involving the use of dangerous chemicals, physical or electromagnetic agents, or substances and mixtures of substances which are classified as toxic, very toxic, corrosive or explosive; or exposure to lead or lead compounds, ionizing radiations, asbestos and other materials containing asbestos;
- work that involves the manual handling or transport of heavy loads;
- deep-sea and offshore fishing, charcoal burning, firefighting;
- work as embalmers, work at prisons or mental hospitals, treatment of psychiatric patients and supervision of psychologically or socially disturbed persons, and other similar work;
- work with experimental types of cancer research or work taking place on the same premises as such research work;
- work performed in extreme cold or heat, or including exposure to a high level of noise or vibration, or to high voltage electricity;
- work on steam boilers, kilns, ovens or other
- work in bars, hotels or places of entertainment, night work, or overtime work;
- camel or horse jockeying; and
- work which exceeds the physical and mental capacities of children, or work such as commercial sexual exploitation which exposes them to physical, psychological or sexual abuse.

<sup>73</sup> See for more information: ILO: *Giving globalization a human face*, cit., pp. 231-232.

### Other areas of interest concerning public policy

An encouraging and important trend is that many national policies and programmes have mainstreamed in public policies attention to orphans and other vulnerable children (OVCs). In many countries the growing population of OVCs has resulted in a large number of children who are vulnerable to becoming victims of trafficking and commercial sexual exploitation, or being used in illicit activities and hazardous work. Children in HIV and AIDS-affected families are often withdrawn from school at a young age to care for ill family members or siblings, and to supplement the income of sick parents.<sup>74</sup>



#### Box 11 – Linking attention to child labour with protection for orphans and vulnerable children (OVC)

In Kenya, the National Action Plan on the Elimination of Child Labour, 2004–2015, identifies the HIV and AIDS pandemic as a contributing factor to child labour, and contains measures to lessen this impact. In Sri Lanka, the National Action Plan for Children includes measures aimed at providing an adequate number of homes to accommodate HIV and AIDS orphans, and the National Strategy and Action Programme Towards the Elimination of Child Labour in Swaziland contains measures to open community registers of child-headed households and to better manage the education of OVC.

IPEC projects also frequently address the vulnerability of OVC. These have included an IPEC project to combat and prevent HIV and AIDS-induced child labour in Sub-Saharan Africa (implemented in Uganda and Zambia), and a project implemented in Malawi containing measures to strengthen community-based safety nets to support OVC, while providing support for OVC withdrawn from child labour.<sup>75</sup>

A number of countries have adopted provisions which impose criminal, administrative and/or other sanctions on persons found guilty of infringing laws on child labour, and particularly on those who seek to involve children in the worst forms of child labour. Other countries have indicated that, according to their legislation, persons who violate child labour laws commit an offence, but their legislation has not established specific penalties. Moreover, some have established sanctions that are not dissuasive enough to assist enforcement of the Convention and deter employers from resorting to child labour.

Some countries have also adopted penalties to which parents may be liable when their children are not enrolled or do not attend school.<sup>76</sup> Given that the large majority of child labour actually occurs in family owned businesses this is an important approach but it needs to be matched by provision of free compulsory education services and effective monitoring of school attendance.

Another major barrier to the effective implementation of the Conventions and national law is often the weak capacity of the labour inspectorate. This lack of capacity is generally attributed to a lack of financial and human resources. These limitations may severely hamper the capacity of the labour inspectorate to monitor child labour in particular regions or sectors. An encouraging development is the growing number of countries providing child labour training to labour inspectors, and assigning labour inspectors to monitor child labour. Another positive trend is in the collaboration between the labour inspectorate and the social partners to better address child labour.

## 3.4 Enforcement and penalties

While the adoption of national legislation is essential as it establishes a framework within which society determines its responsibilities with regard to young persons, even the best legislation only has value when it is applied effectively through the provision of dissuasive penalties and effective monitoring and enforcement mechanisms.

<sup>74</sup> ILO: *Giving globalization a human face*, cit., p. 247 ff.

<sup>75</sup> ILO: *Giving globalization a human face*, cit., p. 249.

<sup>76</sup> ILO: *Giving globalization a human face*, cit., pp. 179-180.



### **Box 12 – A greater role for labour inspection**

There is a trend for labour administrations and labour inspectorates to pay greater attention to Fundamental Principles and Rights at Work (FPRW), and particularly child labour, forced labour and equality in employment and occupation. In both Bolivia and Peru, special departments for the realization of FPRW have recently been created in the Ministries of Labour. In many countries, the scope of action of the labour inspectorate has been extended to encompass forced labour and child labour, often through the creation of special units dealing specifically with these issues, for example in Brazil, the Philippines and Ghana, and through the appointment of labour inspectors as focal points such as in Morocco.<sup>77</sup>

For example, in Albania, the local action committees of a child labour monitoring system include labour inspectors and trade unions. Social partners may play an important role in exposing child labour. In this respect, the full respect for organizational rights in all sectors provides an important cross-cutting impact between the fundamental Conventions on freedom of association and efforts to combat child labour.

Through the work of the ILO's International Programme on the Elimination of Child Labour (IPEC) many countries have been supported in establishing child labour units in labour inspectorates, and established child labour monitoring committees in communities. Expanding relevant monitoring mechanisms to the informal economy can be an important manner in which to ensure that the Convention is applied in practice, particularly in countries where expanding the scope of the implementing legislation to address children working in this sector does not seem a practicable solution.

Among the reports received by the CEACR concerning child labour, 58.8 per cent contain information on labour inspection actions or other statistics. This compares to 31.5 per cent of reports for discrimination, 13.3 per cent for forced labour and 4.5 per cent for freedom of association.

In the context of tackling certain worst forms of child labour some member States have established special units of police officers. These include Internet monitoring groups focused on the detection of child pornography and bodies for monitoring trafficking. Trafficking units within the law enforcement body can support and assist trafficking victims and gather useful information for investigations.<sup>78</sup>

Despite this positive trend, measures to adequately support and reintegrate child victims are often lacking.

Another relevant trend in many countries is the growing and diversified range of public institutions involved in combating child labour, forced labour and discrimination in employment and occupation. Several countries, such as Brazil with the Special Mobile Inspection Unit, have created multidisciplinary enforcement teams in which labour inspectors, labour prosecutors and the police work together to investigate and prosecute cases of forced and child labour more effectively.



### **Box 13 – Few child labour cases make it to Court**

Despite some positive enforcement developments it still appears that few cases concerning child labour make it to the Courts. Only 1.5 per cent of reports received by the CEACR concerning child labour contain information on Court decisions. This compares with 8 per cent of the CEACR reports on discrimination, 7.8 per cent on forced labour and 5.8 per cent on freedom of association.<sup>79</sup>

77 ILO: *Labour administration and labour inspection*, cit., paras. 250–254.

78 ILO: *Fundamental principles and rights at work*, cit.

79 ILO: *Fundamental principles and rights at work*, cit., table 2.5.





## 4. The role of the ILO's International Programme on the Elimination of Child labour (IPEC)

The work of the ILO's **International Programme on the Elimination of Child labour (IPEC)** has been a significant factor both in building global awareness of the child labour problem and through its technical cooperation programme supporting many ILO member States to move towards ratification and application of the child labour Conventions.

Recognising the interdependence of the ILO's Fundamental Principles and Rights at Work (FPRW), IPEC has also developed increasingly strong linkages with ILO programmes including those dealing with other elements of FPRW. For example working with the ILO's Special Action Programme to Combat Forced Labour (SAP-FL) to develop new research to estimate the numbers of children in forced labour, working with ILO's Programme on Safety and Health at Work and the Environment (SafeWork) on hazardous child labour lists, and with the ILO's Bureau for Employers' Activities (ACT/EMP) and the ILO's Bureau for Workers' Activities (ACTRAV) on joint initiatives to involve employers' organisations, business and trade unions in tackling child labour.

IPEC's work has also increasingly focussed on efforts to influence policy discussions and frameworks that can help to tackle child labour in a sustainable way, in particular policy frameworks concerning education and

social protection. At a country level, many IPEC projects are supporting work to develop an "integrated area based approach" which addresses child labour in a holistic way, involving a range of Government Ministries and partners in a concerted effort to tackle child labour.

IPEC has also worked closely with other UN agencies, on issues of data, education, child labour in agriculture, trafficking and children affected by armed conflict. This work has resulted in a significantly improved knowledge base on which policy and programme initiatives can draw. Important progress has also been made on developing Public-Private Partnerships to strengthen the role of international companies in adequately addressing issues of child labour.

Whilst it is clear that the work of IPEC has been a significant factor in building global awareness of the child labour problem and in supporting and enabling many ILO member States to move towards ratification and application of the ILO's child labour Conventions the work of IPEC is not complete. There is still a great demand for IPEC to extend the scope of its programmes to the most neglected regions, economic sectors and hard to reach children. This is very necessary in order to continue and accelerate progress in eliminating child labour with the worst forms of child labour as a priority.



## 5. The way ahead – From commitment to action



As this Policy note has shown the global community is making progress on child labour, with a reduction of the numbers in child labour, widespread ratification of the ILO's child labour Conventions, and many countries putting in place policies and programmes to tackle child labour including its worst forms. However, it also points to weaknesses in the response and it is clear that progress needs to be maintained and strengthened in accordance with the *The Hague Roadmap* and the ILO's 2010 Global Action Plan.

In 2012 the International Labour Conference (ILC) will adopt conclusions on the promotion of Fundamental Principles and Rights at Work (FPRW) which will serve to reinforce commitment and encourage action to eliminate child labour in all member States within an integrated approach to FPRW and the Decent Work Agenda. The elimination of child labour is not a prerogative – it is a duty and a fundamental principle and right of all workers and all children.



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