



TRAINING MANUAL AND RESOURCE BOOK FOR EMPLOYERS ON CHILD LABOUR MALAWI



Developed by

Employers Consultative Association of Malawi (ECAM)

Developed with support from the International Labour Organisation (ILO) Bureau for Employers' Activities (ACT EMP) Geneva.



TABLE OF CONTENTS

INTRODUCTION.....

AIM OF THE TRAINING MANUAL AND RESOURCE BOOK.....

LIST OF COMMON ABBREVIATIONS.....

DEFINITION OF SOME COMMON TERMS.....

PART ONE.....

1.0. INTRODUCTION TO CHILD LABOUR.....

1.1. BASIC FACTS ABOUT CHILD LABOUR.....

1.2. WHAT IS CHILD LABOUR?5

1.3. CHILD WORK AND CHILD LABOUR.....

1.4. WHO IS A CHILD?.....

1.5. MINIMUM AGE.....

1.5.1. MINIMUM AGE AND WORST FORMS OF CHILD LABOUR.....

1.6. CHILD LABOUR -THE SCALE OF THE PROBLEM.....

PART TWO.....

2.0. CHILD LABOUR AS A CONCERN FOR EMPLOYERS IN MALAWI.....

2.1. JUSTIFICATION FOR EMPLOYERS INVOLVEMENT IN CHILD LABOUR....

2.2. WORST FORMS OF CHILD LABOUR.....

2.2.1. OBLIGATIONS OF GOVERNMENT ON WORST FORMS OF CHILD
LABOUR.....

2.2.2. HARZADOUS WORK AS AN EXAMPLE OF THE WORST FORMS OF CHILD
LABOUR.....

2.2.3. THE GRAVITY OF HARZADOUS CHILD LABOUR.....

2.2.4. HAZARD AND RISK.....

2.2.5. EXAMPLES OF HAZARDOUS WORK IN TOBACCO FARMS IN MALAWI.....

PART THREE.....

3.0. CAUSES AND CONSEQUENCES OF CHILD LABOUR

3.1. POVERTY AS A CAUSE OF CHILD LABOUR IN MALAWI.....

3.2. OTHER CAUSES OF CHILD LABOUR

3.2.1. SUPPLY FACTORS CONTRIBUTING TO CHILD LABOUR.....

3.2.2. DEMAND SIDE.....

3.3. FACTORS THAT SUSTAIN CHILD LABOUR.....

3.4. SOCIAL IMPLICATIONS AND CONSEQUES OF CHILD LABOUR IN MALAWI.....

3.4.1. CHILD LABOUR IN THE FACE OF HIV/AIDS.....

3.4.2. SOCIAL RISKS OF CHILD LABOUR

3.4.3. EFFECT OF CHILD LABOUR ON EDUCATION

3.4.4. EFFECT OF CHILD LABOUR ON HEALTH.....

3.4.5. EFFECT OF CHILD LABOUR ON SOCIAL DEVELOPMENT.....

3.4.6 THE GENDER DIMENSIONS OF CHILD LABOUR.....

PART FOUR.....41

4.0. SUPPORTING POLICY AND LEGAL FRAMEWORKS ON CHILD LABOUR.....

4.1. THE CURRENT LEGAL AND POLICY ENVIRONMENT

4.2. INTERNATIONAL LEGAL FRAMEWORK.....

4.2. 1. THE ILO COENTION CONCERNING MINIMUM AGE FOR ADMISSION TO EMPLOYMENT [Convention 138].....

4.2. 2. CONVENTION ON THE ELIMINATION OF WORST FORMS OF CHILD LABOUR [Convention 182].....

4.2. 3. MONITORING OF THE INTERNATIONAL LABOUR CONVENTIONS 138 AND 182

4. 3. OTHER UNITED NATIONS CONVENTIONS COMPLEMENTING ILO STANDARDS

4.3.1. CONVENTION ON THE RIGHTS OF THE CHILD

4.3.2. THE INTERANATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (CESCR).....

4.4. NATIONAL POLICY AND LEGAL FRAMEWORK.....

4.5. NATIONAL POLICIES ON CHILD LABOUR.....

4.5.1. CORPORATE SOCIAL RESPONSIBILITY.....

4.6. LAWS RELATING TO CHILD LABOUR IN MALAWI

4.6. 1. THE CONSTITUTION OF MALAWI.....

4.6. 2. THE EMPLOYMENT ACT.....

4.6. 3. THE TENANCY BILL.....

4.6. 4. INSTITUTIONAL FRAMEWORK.....

PART FIVE.....

5.0. STRATEGIES FOR ELIMINATING CHILD LABOUR AND KEY RESPONSIBILITIES OF EMPLOYERS AND OTHERS

5.1. THE PREVENTION STRATEGY.....

5.2. WITHDRAWAL AND REHABILITATION OF CHILDREN FROM HAZARDOUS WORK.....

5.3. PROTECTION.....

5.4. WHAT EMPLOYERS SHOULD DO TO STOP CHILD LABOUR IN MALAWI.....

5.4.1. EMPLOYERS' ROLE IN MONITORING CHILD LABOUR.....

5.4.2. WHAT EMPLOYERS CAN DO

5.5. THE ROLE OF THE CONSULTATIVE ASSOCIATION OF MALAWI.....

5.6. THE USE OF A CODE OF CONDUCT FOR ELIMINATING CHILD LABOUR.....

5.7. WHAT EMPLOYERS SHOULD BE AWARE OF WHEN WORKING WITH OTHERS TO ADDRESS THE WFCL AND OTHER FORMS OF CHILD LABOUR?.....

5.7.1. LOCAL COMMUNITY INVOLVEMENT WORKING WITH NGOS.....

5.7.2. WORKING WITH TRADE UNIONS.....

5.7.3. GOVERNMENT.....

5.7.4. HOW CAN EMPLOYERS WORK WITH GOVERNMENT.....

PART SIX.....

CONCLUSION.....

EVALUATION.....

Reference Materials.....

ABOUT THIS TRAINING MANUAL AND RESOURCE BOOK

Introduction

This Training Manual and Resource Book on Child Labour is a manual that is aimed at bringing awareness in preventing child labour is focusing on employers in Malawi. It has been developed by ECAM with the assistance of ILO(ACT EMP). The Training Manual and Resource Book has been designed for different employers both as a training tool and resource book on child labour. The training materials will assist employers to learn about child labour as a basis for preventing and taking action to eliminate such labour in their companies as well as the communities in different parts of Malawi.

AIMS OF THE TRAINING MANUAL AND RESOURCE BOOK

This Training Manual and Resource Book is designed to help employers to:

- Assist employers to prevent incidents of child labour in their workplace.
- Raise the awareness of employers and their communities about the problem of child labour and why it is an issue they have to deal with .

- Provide essential information to employers and the communities they work in on the elimination of the worst forms of child labour, particularly hazardous child labour.
- Promote implementation of ILO Convention No. 182 concerning the prohibition and immediate action for elimination of the worst forms of child labour, and its accompanying Recommendation (No. 190).

LIST OF COMMON ABBREVIATIONS

AIDS	-	Acquired Immune Deficiency Syndrome
CLMS	-	Child Labour Monitoring System
CESCR	-	Covenant on Economic Social and Cultural Rights
CRC	-	Convention on the Rights of the Child
CSR	-	Corporate Social Responsibility
ECAM	-	Employers Consultative Association of Malawi
HIV	-	Human Immunodeficiency Virus
ILO	-	International Labour Organization
IPEC	-	International Programme on Elimination of Child Labour
IOE	-	International Organization of Employers
MCLS	-	Malawi Child Labour Survey
NGO	-	Non-Government Organisations
NSO	-	National Statistical Office
OS&H	-	Occupational Safety and Health
NGO	-	Non Governmental Organization
WFCL	-	Worst Forms of Child Labour

DEFINITION OF SOME COMMON TERMS IN THIS MANUAL

Child labour: is work, which, by its nature and/or the way it is carried out, harms, abuses and exploits the child or deprives the child of an education.

Child Work: Child responsibilities that include activities such as helping out at home with light household or garden chores, childcare or other light work after school is over and schoolwork has been done and culturally accepted as a way of grooming a child for future responsibilities.

Child: a child is any person below the age of 18 years

Convention: is an international agreement that countries sign on various issues such as human rights, child labour and other issues.

Corporate social responsibility: are voluntary initiatives that employers or business may undertake in a diverse range of social, economic and environmental areas.

Hazard: is anything with the potential to do harm. A **“risk”** is the likelihood of potential harm from that hazard being realised.

Hazardous work: is work carried out by children, which by its nature or the circumstance in which it is carried out is likely to jeopardise their health, safety or morals.

Minimum age: is the age below which no child should be employed. In Malawi, **14 years** is the minimum age for light work and **18 years** for worst forms of child labour.

Worst Forms of Child Labour: are some types of child labour that have to be eliminated as a matter of urgency. These forms of child labour are stipulated in the **ILO’s Worst Forms of Child Labour Convention, 1999 (C182)**.

Ratification: is a process whereby a state party undertakes some formal commitments and agree to be bound by the obligations contained in the

PART ONE

1.0. BASIC FACTS ABOUT CHILD LABOUR

1.1. WHAT IS CHILD LABOUR?

1.2. CHILD WORK AND CHILD LABOUR

1.3. WHO IS A CHILD?

1.4. MINIMUM AGE

1. MINIMUM AGE AND WORST FORMS OF CHILD LABOUR

1.0. INTRODUCTION TO CHILD LABOUR IN MALAWI

Child labour is an issue that affects Malawi and many parts of the world. The information and activities in this part are meant to enable employers to be aware of the concepts of child labour. Further, the lesson is designed to assist participants to understand the definition of a child in relation to child labour.

Training Objective:

By the end of this session participants should be able to:

- Have an overview of the problem of child labour globally and regionally
- Highlight of the extent of Child Labour in Malawi
- Understand and define the commonly used concepts on child labour, child work, worst forms of child labour and hazardous work.

1.1. BASIC FACTS ABOUT CHILD LABOUR

Before being involved in work to prevent child labour, it is important for participants to have an overall picture of the extent and shape of the problem of child labour, globally as well in Malawi. At the same time, our own individual perceptions on the issue can play an important part in addressing child labour.

1.2. WHAT IS CHILD LABOUR

Child labour is a worldwide phenomenon. Millions of children around the world carry out work that harms their well being, violate their rights and hinders their education, development and future livelihoods. **Child labour** is work, which, by its nature and/or the way it is carried out, harms, abuses and exploits the child or deprives the child of an education¹. Child labour takes many different forms but the priority is given to elimination, without delay, the worst forms of child labour. Although different people may have different perceptions of child labour, it is important for everyone to note that this is an issue of concern that has been agreed to internationally and the ILO has been leading in efforts to eliminate child labour.

¹ Trade Unions and Child Labour Pack, ILO ACTRAV, Geneva, 2000, Booklet No. 2: Union policies to combat child labour, p 3

TRAINING ACTIVITY: UNDERSTANDING CHILD LABOUR

AIMS

- To help us to: identify what is child labour
- Identify the types of work that should not be carried out by children, especially hazardous child labour
- Determine appropriate forms of work by children

TASK

In your small group:

Discuss and agree at what age you think a person ceases to be a “child.” in Malawi

Discuss what you think the term “child labour” means and agree a definition.

Discuss and agree some of the jobs in your places of employment that you think could be described as “hazardous child labour”.

Is there child labour in Malawi?

The operational definition of child labour in Malawi is: Any activity that employs a child less than the age of 14 years [or] any activity that exploits a child, prevents a child from attending school, [and] negatively impacts on the health, social, cultural, psychological, moral, religious and related dimensions of the child’s upbringing. This is similar to the ILO definition below.

FACT BOX

ILO DEFINITION OF CHILD LABOUR

"**Child labour**" refers to any work which by its nature or employment conditions, is mentally, physically, socially or morally dangerous and harmful to children; and interferes with their schooling - by depriving them of the opportunity to attend school; -by obliging them to leave school prematurely; or -by requiring them to combine school attendance with excessively long and heavy work. [Source: www.ilo.org]

TRAINING ACTIVITY

AIMS

To help us to: Conceptualise our own definition and perception of what child labour is

TASK

- Compare your own understanding of child labour with the definition provided above.
- What are some of the perceptions related to child labour especially among poor people in Malawi?

1.3. CHILD WORK AND CHILD LABOUR

Not all work done by children is harmful to them. In fact one finds that in most African settings including Malawi, children begin work from an early age. These children help around the home, run errands, or assist their parents in the family home or business. As they grow older, they take on light jobs to assist them learn valuable traditional trades.

This type of work is referred to as child work. Child work should not be hazardous and should comply with the legal and age limits that have been set up in the Employment Act. The ILO differentiates between child labour and child work in order to give guidance to employers and other stakeholders when dealing with children. It is imperative that as employers, we should be aware of this distinction.

TRAINING ACTIVITY:

AIMS

To help participants appreciate the distinction between child labour and child work

TASK

- Participants should discuss the differences between child labour and child work. Use examples to illustrate the differences.
- What are some of the difficulties that may be encountered in dealing with child labour especially in the tea or tobacco estates in Malawi?

It should also be noted that child labour does not encompass all work performed by children under the age of 18 years. Millions of young people legitimately undertake child work, paid or unpaid, which is appropriate for their age and level of maturity. By so doing, they learn to take responsibility, gain skills and add to their families' and their own well being and income. They may also contribute to their countries' economies. Child labour does not include activities such as helping out at home with light household or garden chores, childcare or other light work after school is over and schoolwork has been done.

Household surveys in Malawi suggest that over 95% of the child work takes place around the home. [Source: Malawi Demographic and Health Survey 2000]. In fact, most African cultures place a high value on children working at home or on the family farm. This is not perceived as harmful work, but rather as socially necessary work, which is of

benefit to the child. This perception has to be balanced with the reality children face in practice.

Child work becomes a problem when it is likely to be hazardous, or interfere with a child's education or harmful to the child's health or physical, mental, spiritual, moral or social development. If a child does light work, and this is carefully monitored, it can be an essential element of a child's socialization and development process, where the child learns to take responsibility, and gain pride in her/his own achievement. Thus for child work to be acceptable, it should not interfere with education, health and personal well being of the child.

1.4. WHO IS A CHILD

The issue of child labour becomes a concern when children in Malawi are made to do work they are not supposed to do. It is therefore important for employers to be aware of who a child is in order to effectively prevent child labour. Article 2 of ILO Convention 182 on the Worst Forms of Child Labour, states that "the term child shall apply to all persons under the age of 18." There are other terminologies associated with the word "child" which is described below. In the context of Malawi, it is important to have a clear definition of a child so as to reduce any ambiguities in determining children who should be protected from child labour. This is a crucial point because there are various determinants of a child in different laws of Malawi depending on the purpose.

TRAINING ACTIVITY

AIMS

To help us to define a child for purposes of dealing with child labour

TASK

- Participants should discuss in their groups what their perceptions of who a child is.
- Who do the communities consider as a child and an adult? What laws or policies do participants know which deal with this issue?

- Do the participants know the minimum age of who is a child in Malawi and in ILO conventions?

In Malawi, different laws give various minimum age limits for different purposes in accordance with those needs. For instance, the Malawi's Constitution has age limits for various purposes. For instance sections 16, 18, 22 and 23 have provisions that touch on children. These various age limits may give us a general idea of who are considered as children. **As employers however, the definitions that we should consider are those under the Employment Act, the Minimum Age Convention and the Convention 182.**

FACT BOX

DEFINING A CHILD IN MALAWI

It is important to define a child in order to enhance the participants' understanding of minimum age. The Convention on the Rights of the Child (CRC) defines a child as any person below the age of 18 years, while the constitution of Malawi defines a child in section 23, as a person below the age of 16.

The CRC also requires State Parties to the Convention to set minimum ages for employment and regulate working conditions for children. According to the Employment Act, any economic activity by a child under 14 years is child labour. In addition, any economic activity that requires the child to work long hours, or use poisonous chemicals or inappropriate or dangerous equipment undertaken by a child of less than 18 years is hazardous work and a worst form of child labour. Hazardous work is discussed below. For purposes of this manual, the **minimum age is 14** for child labour in general and **18 years** for worst forms of child labour.

1.5. MINIMUM AGE

Participants should know that the minimum **age** is the age below which no child of this age and below shall be admitted to work in any occupation. Any person under the age of

14 should be considered as a child who should not be employed or involved in any commercial work under any circumstances.

The Minimum Age Convention, 1973 (C138) obliges state parties to set a minimum age for employment purposes. It recommends 15 years of age as a progressive minimum age. However, for those countries whose economies and education facilities are not advanced, the Minimum Age Convention recommends a minimum age of not less than 14 years. Malawi has signed and ratified this Convention.

As a follow up to the ratification of C138, the Employment Act in Malawi sets the minimum employment age at 14 years. Further, the Act protects a child of the ages between 14 years to 17 years from being employed in order to carry out hazardous work i.e. any occupation or activity that is likely to be harmful to the child’s health, safety, education, morals or development; or prejudicial to the child’s attendance at school or any other vocational training programme. This stipulation is also supported by the Constitution, which protects children’s rights in section 23.

1.5.1. MINIMUM AGE AND WORST FORMS OF CHILD LABOUR

Every person is somebody’s child and this can sometimes blur the distinction between a child and an adult especially in situations where children may be at risk. For purposes of eliminating the **worst forms of child labour** (*this topic is discussed in detail below*), it is important to know that a child is anyone who is under the age of 18 years. The table below gives an overview of some important age limits in relation to child labour.

TABLE 1: Age Limits Table

MINIMUM AGES IN ACCORDANCE WITH CONVENTION 138		
General Minimum Age	LIGHT WORK	HAZARDOUS WORK
In normal circumstances:		

15 years or more (not less than compulsory school age)	13 YEARS	18 YEARS * (16 years conditionally)
Where the economy and educational facilities are insufficiently developed: 14 years	12 YEARS	18 YEARS * (16 years conditionally)

* The Convention provides that a lower age of 16 may be authorised if (a) the health, safety and morals of the young persons concerned are fully protected and (b) they have received adequate specific instruction or vocational training in the relevant branch of activity. Both these conditions must be fulfilled to allow such a lower age, but in consultation with the employers' and workers' organizations concerned before hand.

1.6. CHILD LABOUR- THE SCALE OF THE PROBLEM

Participants should know that due to a number of factors we will discuss in another chapter below. The scale of the problem is growing big and we need to have an overall picture of the issue. In 2000, ILO IPEC reported² that 352 million children were "economically active" worldwide, that is engaged in some form of economic activity. Of the 352 million, 246 million - one in every six children aged 5 to 17 - are involved in child labour which the ILO says should be abolished. The figure of 246 million is in turn subdivided into:

- **8 million in** unconditional worst forms of child labour
- **171 million in** hazardous child labour

The ILO report notes³ that child labour often assumes serious proportions in commercial agriculture associated with global markets for cocoa, coffee, cotton, rubber, sisal, tea

² A Future Without Child Labour, ILO, Geneva, May 2002 p18

³ A Future Without Child Labour, ILO, Geneva, May 2002 referred to in ILO/IPEC Project Document 26 September 2002 p4

*and other commodities. Studies in Brazil, Kenya and Mexico have shown that children under 15 make between 25 and 30 per cent of the total labour force in the production of various commodities. According to the ILO, more than 80 million children between the ages of 5 and 14 are economically active in Africa. Since national economies are predominantly based on agriculture, it is estimated that **seventy per cent** of these children are found in agriculture.*

In Malawi as well due to the mainly agro based economy, it is also the agriculture sector that employs more children. Surveys put **70 %** of children as working in agriculture, fishing, forestry and hunting, **8 %** work in manufacturing, wholesale and retail trade, **7 %** in domestic work, **4 %** in transport and communication, **3 %** in construction and **8 %** in other sectors. [Source: ILO: IPEC Action Against Child Labour, 2002]

In 2002, the MCLS observed that there were about 3.8 million children in the 5-17 year age range, representing 34% of Malawi's population (NSO, 2002). Out of these, 2.7 million attended school representing 72% of the 5-17 year age range. It further observed that 3.2 million children worked within their family's houses and outside their homes in economic and non-economic activities some twelve months prior to the survey. The survey estimated that there were 1.4 million children engaged in child labour, representing 37% of the 5-17 age group and 47% of the working children.

The MCLS defined as child labour any economic or non-economic activity that was detrimental to the health, safety and education of a child or is likely to cause harm to the morals and would affect the normal development of the child. The MCLS figures indicate that the use of child labour was more pronounced in agriculture, forestry, hunting and fishing at about 53.5%, followed by community, social, and personal service at 42.1%. Wholesale, retail trade, restaurants and hotels employed about 3.9 percent of the child workers, while mining and quarrying, construction and manufacturing employed 0.5 percent.

PART TWO

2.0. CHILD LABOUR AS A CONCERN FOR EMPLOYERS IN MALAWI

2.1. JUSTIFICATION FOR EMPLOYERS INVOLVEMENT IN CHILD LABOUR

2.2. WORST FORMS OF CHILD LABOUR

1. OBLIGATIONS OF GOVERNMENT ON WORST FORMS OF CHILD LABOUR

2. HAZARDOUS WORK AS AN EXAMPLE OF THE WORST FORMS OF CHILD LABOUR

3. THE GRAVITY OF HAZARDOUS CHILD LABOUR

4. HAZARD AND RISK

5. EXAMPLES OF HAZARDOUS WORK IN TOBACCO FARMS IN MALAWI

2.0. CHILD LABOUR AS A CONCERN FOR EMPLOYERS IN MALAWI

The information and activities below have been designed to bring awareness on the issues of child labour and why these are relevant to employers. We will see that the involvement of employers on child labour issues is justified while at the same time, there is awareness raising and advocacy to bring in more stakeholders.

The first thing to note is that there are no specific accurate statistics on child labour in Malawi. Most of the figures that we have used are therefore estimates from different research pieces. There are also no hard statistics of how many children are employed in different sectors as child labourers. There are however indicative figures, which have been presented below. **It is however important to note that the problem of child labour is here in Malawi and as employers, we need to deal with it.** We should acknowledge the problem to be able to deal with it.

TRAINING ACTIVITY

AIMS

To help participants to understand and appreciate the extent of the problem of child labour and relate this to Malawi

TASK

- What is the understanding of the participants of the extent and shape of the problem of children labour in Malawi?
- Which sectors are employing child labour and why
- Participants should discuss and try to come up with some suggestions on what they perceive as the depth of the problem.

Despite the scarcity of reliable data, there are however clear indications that child labour is a huge problem in Malawi.

FACT BOX: EXTENT OF CHILD LABOUR IN MALAWI

Reports indicate that about **27%** of children aged 5-14 were working as child labourers in Malawi. **65%** of these were not paid. Out of these, about **62%** work in family businesses or farms. [Source: Malawi Demographic and Health Survey 2000] This data might indicate to us that much as child labour is present in the big commercial sectors, it is also equally rampant in the informal commercial sector.

In 2002, the MCLS observed that there were about 3.8 million children in the 5-17 year age range, representing 34% of Malawi's population (NSO, 2002). Out of these, 2.7 million attended school representing 72% of the 5-17 year age range. It further observed that 3.2 million children worked within their family's houses and outside their homes in economic and non-economic activities some twelve months prior to the survey. This was about 80% of the 5-17 year age range. The survey also observed that 1.5 million children or 38% of the same age range were economically active during the same period, and some 1.1 million or 29% were economically active a week prior to the survey. The survey estimated that there were 1.4 million children engaged in child labour, representing 37% of the 5-17 age group and 47% of the working children.

Although accurate child labour data in Malawi is scanty, some data has been collected from the tobacco and tea sectors. According to the results of a sample survey of tobacco estates conducted in 1998, **25%** of the children population reported skipping school often or sometimes to help their parents or the estate owner. It was further found that as many as **34%** of the children were absent from school for a period in order to assist their households or the estate. The same survey found that about **20%** of all children up to 14 years of age were working with their parents on a full time basis and a further **21%** on a part time basis. To crown it all, children in the tenant households were reported to be mere assistants in domestic work but full time workers in the field. [Source: FAFO Report 389 (2000); The Smoking Business: Tobacco Tenants in Malawi]. It is important

that employers are aware of these figures if they are to fully participate in efforts to prevent child labour in Malawi.

The data above is a clear indication to us as employers, there is work that needs to be done to eliminate child labour in Malawi. We should act to prevent child labour both in our policies as well as in practice. This means that there is a clear obligation that we should educate our management and staff on this issue as well.

2.1. JUSTIFICATION FOR EMPLOYERS INVOLVEMENT IN CHILD LABOUR

At the outset, it is important to be clear about what is being addressed. The problem of child labour, which can have devastating impacts on children and on the economic growth of their communities, must be clearly defined before solutions can be found to address it. This problem concerns the employers as well as other players. A recent survey by ECAM shows that the dominant view of the employers is that there is no child labour in their industry. Statistical returns from the estates found at the district labour offices indicate that there are no workers under the age of 14 years. Threats of an international ban on Malawi tea and tobacco on account of the use of child labour, coupled with the policy and legal interventions by the Malawi Government, have forced the employers in the tea industry to stop the employment of children under the age of 14 years. Further as action is required to further prevent child labour in the industry.

TRAINING ACTIVITY:

AIM: to justify employers involvement on child labour issues

TASK

Participants should individually and in groups of two, discuss why they think employers should be concerned with the issues of child labour in Malawi. The different answers should be shared in plenary discussions.

There are many justifications that should compel and convince employers to be more involved in efforts to stop child labour issues. Employers will generally speaking, agree that the place of children is not at work. During childhood, every child should have a right

to education. Sometimes, the fact of employing children has, in a number of contexts, been understood to be positive. Through work, children can acquire marketable skills. They can also earn indispensable income for themselves and their families, which can be a necessity in developing countries and in poor families. This positive outlook must, however, be contrasted with activities that threaten the health, morals or future development of children and adolescents.

Besides those based on ethical and moral grounds, there are many reasons why employers should participate in the elimination of child labour especially the Worst Forms of Child Labour in communities in which they operate. It is in the interest of employers to do so.

- **Child Labour can have a direct negative impact on business or employers in Malawi.** Companies with operations in locations where child labour is common may be concerned by its long term impact on the pool of trained labour, since children who work instead of going to school may have fewer opportunities to become skilled adult workers.
- **Child Labour in a company's supply chain can affect the public's perception of the company and may present a negative image that the employer exploits children.** This fact has led many companies to address both the Worst Forms of Child Labour and other forms of child labour, as part of their corporate social responsibility agenda. As employers it is our obligation to ensure that child labour is prevented as part of our business.
- **Finally, business or employers in Malawi should become involved because it is uniquely placed to do so.** Beyond its natural role in wealth creation and promoting economic growth, employers in Malawi can have a direct impact through their own initiatives or ECAM. Employers' organizations such as ECAM are uniquely placed to raise awareness of the problem and contribute to social alliances. They can therefore take a leading role in eliminating child labour in Malawi by sensitising their members to abide to their code of conduct.

TRAINING ACTIVITY:

AIM

To Help Us:

- Determine whether employers are aware of child labour in Malawi. What actions are taken to prevent child labour?
- Whether we have put in place preventative measures

TASK:

- Discuss the advantages and disadvantages of employing child in the industry.
- Are there any cases of child labour in Malawi that you know of?
- What measures have we taken as employers to sensitise their staff on child labour?

In conclusion therefore, it is clear that the issues of child labour are relevant to employers and they need to be aware of this. It is also crucial for them to be proactive in preventing child labour, as this is beneficial for business and Malawi as a country.

2.2. WORST FORMS OF CHILD LABOUR

The elimination of child labour is a long-term goal and programme in any country including Malawi. However there are some types of child labour that have to be eliminated as a matter of urgency. These forms of child labour are stipulated in the **ILO's Worst Forms of Child Labour Convention, 1999 (C182)**. This convention lays down what the worst forms of child labour are and the critical actions that governments have to take. Malawi has signed this convention and was one of the first countries to ratify the 1999 Convention. It is therefore important for employers to note that eliminating the worst forms of child labour is an immediate legal obligation that has to be undertaken.

A CONVENTION IS AN INTERNATIONAL AGREEMENT THAT DIFFERENT COUNTRIES SIGN ON A PARTICULAR ISSUE

Article 3 of Convention 182: Worst forms of child labour

Whilst child labour takes many different forms, a priority is to eliminate without delay, the worst forms of child labour as defined by Article 3 of ILO Convention 182. These 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;

(d) 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.

Labour that jeopardises the physical, mental or moral well-being of a child, either because of its nature or because of the conditions in which it is carried out, is known as “*hazardous work* as is discussed below”⁴.

2.2.1. OBLIGATIONS OF GOVERNMENT ON WORST FORMS OF CHILD LABOUR

By signing Convention 182, government agrees to be bound by the obligations created by the provisions of the convention. These obligations are specifically provided for under Article 6 of Convention No 182, and governments are required to:

- Design and implement programmes of action to eliminate as a priority the worst forms of child labour
- Consult with relevant government institutions and employers' and workers' organisations, taking into consideration the views of other concerned groups as appropriate.

The Convention calls for international cooperation and assistance for putting an immediate end to the worst forms of child labour through (i) putting priority action to

⁴ A future without child labour Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work 2002 Para 26

determine which hazards bring work into the category of the worst forms; (ii) the establishment of monitoring mechanisms and the implementation of programmes of action; (iii) the adoption of measures for prevention, rehabilitation and reintegration; and (iv) particular attention to children at special risk and the especially girls.

It is an obligation of all governments who have ratified Convention 182 to act immediately to end the worst forms of child labour. The worst forms are the unconditional types of child labour, which must be stopped at all times and at any cost and that all children regardless of their age should be protected from this type of child labour. As the government is obliged to implement the provisions of the convention 182, laws and policies can be made that bind employers and other stakeholders together.

Employers should take note that they are under bound by the laws.

FACT BOX

OTHER RELATED TERMS USED ON CHILD LABOUR:

Employers in Malawi should be aware of other forms of child labour. There are examples of worst forms of child labour that may affect children in tobacco and tea estates in Malawi.

Child Slavery - As per ILO Convention 182, child slavery refers to: "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".

Child Trafficking - Child trafficking refers "to any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration". This category puts children in a situation of commercial exploitation. Many of them end up working as slaves, prostitutes, soldiers, etc.

Child Prostitution and Pornography - As per the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, the definition of child prostitution is "the use of a child in sexual activities for

remuneration or any other form of consideration". Child pornography means "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, the dominant characteristic of which is depiction for a sexual purpose."

Children Used for Crime - In line with Article 3(c) of ILO Convention 182, this category covers "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".

Domestic Child Servants - This category includes children working on household duties for extended hours at the home of an employer. The category "domestic child servants" is not explicitly mentioned in ILO Convention 182 or ILO Recommendation 190, but many of these children are working in slavery or slave-like conditions, many have been trafficked into their current situation, and most young full-time domestic child servants are working at risk to their health, safety and morals. To reinforce this point, Paragraph 3 of Recommendation 190 says that states should consider hazardous work to include "work which exposes children to physical, psychological or sexual abuse" and "work where the child is unreasonably confined to the premises of the employer". Child domestic servitude is one of the most damaging forms of work for a child's physical, mental, moral, social, and emotional development.

2.2.2. HAZARDOUS WORK AS AN EXAMPLE OF THE WORST FORMS OF CHILD LABOUR

A number of references have already been made to hazardous work. All employers should be familiar with this term as it is crucial to eradicating the worst forms of child labour.

It is important therefore that when dealing with the issue of the worst forms of child labour in Malawi, hazardous work should be regarded as an important area of concentration. By definition, **Hazardous work is work carried out by children, which by its nature or the circumstance in which it is carried out is likely to jeopardise their health, safety or morals.**

Guidance for governments on some hazardous child labour activities which should be prohibited is given in the Recommendation 190 Concerning the Prohibition and Immediate Action for the Elimination Worst Forms of Child Labour 1999. These guidelines are given below.

GUIDELINE IN DETERMINING HARZADOUS WORK

In determining the types of work referred to under Article 3(d) of the Convention, and in identifying where they exist, consideration should be given, inter alia, to:

- (a) Work which exposes children to physical, psychological or sexual abuse;*
- (b) Work done underground, or under water, at dangerous heights or in confined spaces;*
- (c) Work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;*
- (d) Work done in an unhealthy environment, which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;*
- (e) Work done under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.*

In determining what constitutes hazardous work in the context of Malawi, ILO Convention 182 requires state parties to consult with all stakeholders to identify what type work is deemed hazardous in a particular country. In line with this requirement, section 22(2) of the Employment Act obliges the minister responsible, in consultation with relevant organizations of employers and employees, to specify, by notice published in the gazette, occupations or activities which, in his or her opinion, are likely to have hazardous effects on children. Organizations such as ECAM would be relevant in any consultation process.

2.2.3. THE GRAVITY OF HARZADOUS CHILD LABOUR

Hazardous child labour is a real threat to the health and safety of children in Malawi. Employers should be aware of the facts discussed above so that they can join in fighting worst forms of child labour. Around the world, an estimated 171 million children ages 5-

17 work in dangerous, hazardous conditions that could result in them being killed, or injured (often permanently) and/or made ill (often permanently)⁵. Work which results in children being killed, injured or made ill as a consequence of poor safety and health standards and working conditions/arrangements is called hazardous child labour.

Hazardous child labour is by far the largest category of worst forms of child labour and it has to be eliminated. An estimated 22,000 children⁶ are killed every year at work. No figures for child accidents or ill health due to work are currently available. But every year there are 270 million work accidents and 160 million cases of ill health due to work, and child labourers figure amongst these statistics. The risks arising from hazards in the workplace are much greater for children.

2.2.4. HAZARD AND RISK

When discussing hazards it is important to understand the distinction between hazard and risk. **A “hazard” is anything with the potential to do harm. A “risk” is the likelihood of potential harm from that hazard being realised.** For example, the hazard associated with machinery for tea processing might be getting trapped or entangled by moving parts. The risk may be high if guards are not fitted and workers are in close proximity to the machine. If however, the machine is properly guarded, regularly maintained and repaired by competent staff, then the risk will be lower.

TRAINING ACTIVITY:

AIM

To help us identify hazardous work

TASK

Ask participants to give their definition of hazardous work. What are some of the activities that may be hazards or risks that children may face while working in the tea estates or farms or other places of employment?

⁵ Every Child Counts: New Global Estimates on Child Labour. ILO International Programme for the Elimination of Child Labour, Geneva, 2002, Summary)

⁶ Cited in IPEC Safety and Health Fact Sheet “HCL in Agriculture: an Overview”

It is important to take note that in different countries, a large number of children are involved in extremely hazardous occupation or work in dangerous conditions such as construction, mining and quarrying. In the tobacco or tea industries in Malawi, one can include a number of activities as hazardous work. These may include exposure to dangerous chemicals, working with heavy machinery, lifting burdensome loads as well as working in an environment that is not conducive to their health and development. The children working on tobacco farms are also likely to work for very long hours in the fields.

FACT BOX

Examples of Hazardous Child Labour - According to the ILO Convention 182, hazardous child labour is considered to be "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." The accompanying recommendation 190 to the Convention requires that in determining what is hazardous child labour, governments must consider the following:

Work which exposes children to physical, psychological or sexual abuse; underground, under water, at dangerous heights or in confined spaces; work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads; work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health; work under particularly difficult conditions such as work for long hours or during the night.

2.2.5. EXAMPLES OF HAZARDOUS WORK IN TOBACCO FARMS IN MALAWI

There are many hazards and hazardous situations that can qualify as hazardous work as defined in the Worst Forms Convention as well as in the Employment Act. Below is a list of some of the suggested work or occupations that may qualify as worst forms of child labour in Malawi.

TRAINING ACTIVITY

AIM

To help us understand the hazards children may face at the work place

TASK

What are the hazards and hazardous situations that children may be exposed to when working in the tobacco estates in Malawi?

In compliance with the requirements of the Employment Act, the minister responsible is supposed to list what is hazardous work in the gazette. However, he has not yet gazetted the list of work or conditions considered as hazardous for purposes of the worst forms of child labour. Using the relevant guidelines, employers would be in a position to identify hazards.

Identifying hazards

TRAINING ACTIVITY: Identifying hazards

AIMS

To help us to:

- Identify work activities and hazards
- Decide who is most at risk

TASK

Your trainer will draw cropping calendars on posters, and will arrange for small groups of participants who do similar work to be formed.

In your small group:

1. Select five farming activities when growing tea or tobacco and list them
2. List the person or groups of people (women, children or men) who undertake these activities
3. List the tools, equipment, materials, substances, effort and attention required
4. Identify the hazards from the tools, equipment, materials, substances, effort and attention required
5. Identify the person or group of people that are most at risk (women, children, men) from those hazards

Some of the hazardous work that child labourers in Malawi may face could be as follows:

- Lifting heavy loads that may cause retarded growth in children
- Operating heavy machinery like tobacco bailing
- Walking long distances for deliveries of heavy loads
- Children working overnight causing lack of sleep and exhaustion
- Exposure to use of drugs including *chamba* (Indian Hemp) to enable them do heavy work on the tobacco farms
- Working without boots or other protective equipment exposing children to risk of injury
- Use of chemicals during tobacco growing and processing can affect the respiratory system of the child since the chemicals are dangerous
- Sexual exploitation by supervisors. Women and girls are exposed to sexual exploitation and the risk of HIV/AIDS
- Working long hours in adverse weather conditions

PART THREE

3.0. CAUSES AND CONSEQUENCES OF CHILD LABOUR

1. POVERTY AS A CAUSE OF CHILD LABOUR IN MALAWI

2. OTHER CAUSES OF CHILD LABOUR

3. SUPPLY FACTORS CONTRIBUTING TO CHILD LABOUR

4. DEMAND SIDE

3.2. FACTORS THAT SUSTAIN CHILD LABOUR.

3.3. SOCIAL IMPLICATIONS AND CONSEQUES OF CHILD LABOUR IN MALAWI

3.4. CHILD LABOUR IN THE FACE OF HIV/AIDS

3.5. SOCIAL RISKS OF CHILD LABOUR

3.6. EFFECT OF CHILD LABOUR ON EDUCATION

3.7. EFFECT OF CHILD LABOUR ON HEALTH

3.8. EFFECT OF CHILD LABOUR ON SOCIAL DEVELOPMENT

3.0. CAUSES AND CONSEQUENCES OF CHILD LABOUR

INTRODUCTION

Child labour is a complex problem and may have different causes. As employers, our first priority should be to join hands with other stakeholders in understanding the causes and taking action to stop the worst forms of child labour. In this section, the information and activities have been designed to identify the causes and consequences of child labour. Participants will highlight the main causes of child labour in general and will examine the negative effects of child labour. Further, there is an outline on *what* causes child labour in Malawi, why children are forced to undertake hazardous work, why parents send children to do child labour and why employers employ children. Lastly, the negative consequences of child labour will be shown as well.

Child Labour is a sensitive and emotive concept. The reason is that it is often viewed either as a natural extension of the social and economic activities the children are domestically engage in, or as a form of socialization. In the normal household setting children are socialized from an early age towards playing a productive role in society and in the family (FAFO and CSR, 2000:73)

3.1. POVERTY AS A CAUSE OF CHILD LABOUR IN MALAWI

The causes of child labour are complex and many and it is critical to examine some of the causes in the context of Malawi. We can look at child labour as having immediate or symptomatic causes and, underlying or root causes. In all these circumstances, some employers seek out to employ children. At the same time, due to poverty in Malawi, some parents pressurise employers to take in children for them to have some income.

Immediate causes of child labour act directly at the level of the child and the family while **underlining causes** refer to values and situations that may predispose a family or community to accept or even encourage child labour for boys and/or girls. **Structural or root causes** act at the level of the larger economy and society, influencing the enabling environment in which the child labour can either flourish or be controlled.

An analysis of the above points at widespread poverty in Malawian society as a major underlying cause of child labour. [Source: the GoM/Unicef Situation Analysis of women and children in Malawi, 2001]

TRAINING ACTIVITY: What causes children to work?

AIMS: to Discuss the different types of work that children do

Establish why children work

TASK

Use the problem tree to identify various immediate and root causes of child labour. Compare the causes in different contexts (e.g. rural/urban)

Poverty is deep rooted in Malawi. For instance, the 2001 Malawi National Human Development Report states that most people are poor and not employed. At the national level, only 9% of the population is employed and over 80% of those employed are in the agriculture sector. [Malawi Development Report, 2001]. The fact that a lot of people are employed in the agriculture sector may in some way to explain why there are a lot of child labourers in the tobacco-farming sector. In Malawi therefore, child labour is to a large extent explained by poverty, lack of resources, especially land in the cases of Mulanje and Thyolo, as well as poor institutional and regulatory settings. Poverty and economic necessity exert major pressure on families to make use as early as possible of the time and labour of their children to assist in family survival, often at the expense of education.⁷

Poverty is made worse by natural and man-made disasters. For instance the hunger and food crisis in 2005 coupled with HIV/AIDS increase poverty levels and suffering leading to more children getting into the labour market in Malawi. Other factors that may worsen poverty are things like illiteracy, powerlessness, ignorance of rights and the lack of viable

⁷ For a detailed discussion on this see FAFO and CSR, 2000, *The Smoking Business, Tobacco Tenants in Malawi*.

options for families who do not have stable incomes. Due to poverty, hard-pressed parents may not feel that the long-term returns of education outweigh the short-term economic gain through child labour. Further to this, children may decide to work, to supplement their family's income, knowing the family needs it. Employers have a moral and social responsibility to assist the government in eradicating poverty and to ensure that situations of poverty are not exploited.

TRAINING ACTIVITY: Children working in agriculture

AIMS

To help us to:

- Discuss the different types of work that children do
- Establish the root and immediate causes of child labour in Malawi

TASK

In your small group:

1. Discuss the different types of work that children do.
2. Identify what you think the causes of child labour are.
3. For each cause, determine whether it is an immediate, intermediate or root cause.

3.2. OTHER CAUSES OF CHILD LABOUR

Participants should further discuss other causes of child labour by trying to examine them as immediate, underlying and structural causes using the table below as an illustration. One question that has to be borne in mind is outlining the responsibilities government, employers and other duty bearers in the circumstances portrayed in the table below. [Source: Child Labour Baseline Survey in Malawi, ILO/IPEC 2003]

TABLE: CAUSES OF CHILD LABOUR

Immediate causes	Underlying causes	Structural causes
Limited or no cash or food stocks; Increase in price of basic goods	Breakdown of extended family and informal social protection systems	Low/declining national income
Family indebtedness	Uneducated parents; high fertility rate	Inequalities between nations and regions; Adverse terms of trade
Households shocks (death or illness of income earner; crop failure)	Cultural expectations regarding children, work and education	Societal shocks, e.g. war, financial and economic crises, transition, HIV/AIDS
No schools; or schools of poor quality or irrelevant	Discriminatory attitudes based on gender, caste, ethnicity, national origin, etc.	Insufficient financial or political commitment for education, basic services and social protection; 'bad' governance
Demand for cheap labour in informal micro enterprises	Perceived poverty; desire for consumer goods and better living standards	Social exclusion of marginal groups and/or lack of legislation and/or effective enforcement
Family business or farm cannot afford hired labour	Sense of obligation of children to their families, and of 'rich' people to the 'poor'	Lack of decent work for adults

Apart from the above, employers should also be aware that the causes of child labour may be as looked at as an issue of supply and demand factors in the labour market. These factors need to be taken not of in efforts to eliminate the worst forms of child labour. We examine some of these factors below.

3.2.1. SUPPLY FACTORS CONTRIBUTING TO CHILD LABOUR

- Poverty as already explained above. This may lead to, among other things, families wanting to supplement household income, school fees, and to acquire food in times of household food shortages
- Popular perceptions, local customs and traditions. This concern the belief that most families have, that children have to do some work as they are growing up. Due to these perceptions, sometimes children end up being involved in work that is not suitable and is hazardous.
- Family size may contribute to child labour when financial pressures affect large poor families. In order to survive, families may resort to sending their children to do child labour just to supplement the family income.
- Availability and quality of schooling-if schools are not in the communities, or they are very far away, children may not be in a position to attend. As a result, they may end up being employed as child labourers. What is being made clear is that, education for the poor children may be inaccessible, of low quality or seen as irrelevant.
- Desire for consumer goods. Children or their parents may desire some consumer goods. This might lead to children being involved in child labour in order to raise the necessary resources to do that.

3.2.2. DEMAND SIDE

- Unpaid works in family enterprises. This is because when a family has its own farm, it will use its own children to do work on that farm. This may include forcing children to do hazardous work.
- The demand for cheap and easy to control labour. This comes in because a lot of tobacco farmers have shown preference to children since they can pay them less than adults. Further, since they are young and vulnerable, children can be easy to control when given work to do. There is thus a market demand for children because they are generally docile, obedient and dispensed with easily if labour demands

fluctuate. In these circumstances, children are unprotected, powerless and silent as far as their rights as workers are concerned

- Children and their parents being less aware of their rights and thus leading to the children being exploited through child labour

TRAINING ACTIVITY

AIM:

To help us to:

- Consider some examples of why child labour is an issue in tobacco estates.
- Give our own perspective of the issue in Malawi

TASK

Participants should indicate whether they agree or disagree with the points indicated below

3.3. FACTORS THAT SUSTAIN CHILD LABOUR.

Despite its negative effects, child labour is a growing problem in the tobacco farms and tea estates. As can be seen below, the same factors that cause child labour can actually serve to sustain the problem.

- **Poverty.**
- Lack of schools, teachers and learning materials.
- Discrimination which leads to inequalities and lack of economic opportunities
- Cultural definitions of childhood.
- The spread of HIV/AIDS, which might lead to, the breakdown of extended families due to the strain, brought by the disease. This has left many orphaned children to be without care.
- Lack of policy and lack of law enforcement. This is because although the law is there, the question is whether or not there is adequate or any enforcement. Further, if the efforts to deal with child labour are not concerted, this might perpetuate the problem.

TRAINING ACTIVITY

AIM:

To help us to: examine factors that sustain child labour

TASK

- *Each participant should come up with additional points on what they believe are major factors that contribute and sustain worst forms of child labour in Malawi?*
- What can employers do to deal with these factors?
- Which other stakeholders have a role to play in this fight
- What challenges and impediments could be faced when doing this work from an employers' perspective.

3.4. SOCIAL IMPLICATIONS AND CONSEQUES OF CHILD LABOUR IN MALAWI

Various studies around the world as well as in Malawi have shown that the worst forms of child labour, and child labour generally has a lot of negative consequences. That is why it becomes important to protect children from hazardous work. The protection of children from any work that is likely going to interfere with their education and health has therefore been at the heart of international conventions and national legislation.

3.4. 1. CHILD LABOUR IN THE FACE OF HIV/AIDS

There is increasing pressure for orphans to be allowed to work in agriculture and there is a very real and immediate danger that these children will be exploited. There are so many orphans due to the impact of HIV/AIDS in Malawi. As employers, we should be aware of the devastating effects of the pandemic. The epidemic has affected millions of workers and their families, wiping out breadwinners and thus increasing poverty and leaving many children orphaned. These in turn become child labourers.

The HIV/AIDS pandemic has affected child labour greatly. The pandemic has taken away breadwinners leaving children to fend for themselves as well as their young siblings in child headed households. Consequently there is an increasing pressure for orphans to be allowed to work in agriculture to cover their living costs. There is a very real and immediate danger that these children will be exploited and their health put further at risk by exposure to occupational health and safety hazards.

It is also very common to see children being forced to work as child labourers in order to take care of their sickly parents or guardians. Further, HIV/AIDS has increased the number of orphans and overstretched the traditional absorption of orphans. This increase has also meant a lot of street children who are often exploited in child labour situations. Loss of one or both parents, mostly due to HIV/AIDS, has therefore become a serious cause of child labour. With the economically active adult population most affected, children are often forced or drawn into the labour market. Children are therefore often forced to drop out of school, become heads of the household and enter the labour market to contribute to the family income or to take care of their own survival. It should be noted that in Malawi most orphans join other households in the extended family

system. In these situations, orphans are sometimes forced to work too long, too much and are absent from or drop out of school

3.4.2. SOCIAL RISKS OF CHILD LABOUR

There are also other specific areas where negative consequences might be felt as a result of child labour.

TRAINING ACTIVITY

AIM

To help us to:

Think about the social impact of child labour

TASK

Participants should be divided into groups to discuss specifically, some of the areas of child development that might be affected due to involvement of children in worst forms of child labour. In plenary, the points should be discussed as the starting points.

3.4.3. EFFECT OF CHILD LABOUR ON EDUCATION

Education is one of the areas that may be negatively affected by the involvement of children in the worst forms of child labour in Malawi. These effects will be there regardless of the fact that there is free education in Malawi:

- Children will fail to attend school
- Children go to school tired and do not concentrate
- Children go to school late - sent back or punished - therefore miss classes
- Poor performance in school - fail examinations
- Poor performance leading to dropping out of school
- Force children to be absent and eventually to drop out of school

- Children have no time for study and may fail examinations

3.4.4. EFFECT OF CHILD LABOUR ON HEALTH

When children are growing up, their health is of paramount importance if they are to grow into productive adults. Due to its very nature, the worst forms of child labour will have a negative effect on those children who are involved. The effects include the following:

- Children get ill easily due to more time spent on working
- Children are weakened or suffer from body pains because of heavy workload, working long hours in the sun and without resting
- Weakened bodies become susceptible to disease and infections
- Children experience stunted growth - weak and loose weight
- Children become physically affected
- Children suffer from headaches, pains in the respiratory system and diarrhoea (if they eat without washing hands) when applying chemicals.

3.4.5. EFFECT OF CHILD LABOUR ON SOCIAL DEVELOPMENT

There might also be effects on social development of the child. These may be the following:

- Children drop out of school and end up being dependent all their lives
- Children end up uneducated - making it doubtful whether they are indeed going to be future leaders:
- Children are unable to have time for play and pleasure

In clear terms, a child's early entry into the labour market destroys the child's future. The future is destroyed because the child enters the labour market without learning sustainable life skills. The child enters adult life without savings from the early entry into the labour market because as a child s/he gets little pay. The child enters the adult life

as a perpetual labourer; a situation that may breeds poverty. Employers will also lose out, as those available in the labour market will not be well qualified.

TRAINING ACTIVITY

AIM

To help us to discuss the impact of worst forms of child labour

TASK

- Participants should discuss what other effects of worst forms child labour on the child, his or her family and the community.
- In considering your responses, examine the social, psychological, economical, and educational and other effects.
- Further discuss what some perceived positive effects of involving children in child labour? Indicate how the negative effects outweigh these.

3.4.6 THE GENDER DIMENSIONS OF CHILD LABOUR

The harmful impact of child labour does not discriminate between girls and boys. Thus, in principle, both girls and boys might be subjected to the same risks and hazards. It should however be pointed that the worst forms of child labour can have a gender dimension. This is due to the fact that female child labourers may be further exposed to other hazards or risks due to the environment where they have been employed as child labourers.

TRAINING ACTIVITY

AIM

To help us to: determine the gender dimensions of child labour

TASK

1. Participants should list down a number of risks and hazards that children may be subjected to on a tobacco or tea estate in the Malawi. What hazards may (1) affect both boys and girls (2) boys only (3) girls
2. Whom do you think may be open to other forms of abuse due to their situation as child labourers? Provide reasons for your choice.

A number of studies have shown that girls are generally more vulnerable than boys. This is due to a number of factors ranging from cultural beliefs and gender imbalances. This interplay repeats itself in situations where children are being used as child labourers. Girls, apart from facing other hazards, will be prone to sexual violence and child prostitution. Some of the underlying causes of the vulnerability of girls include the following:

- *Harmful Cultural practices*
- *Sexual violence and harassment*
- *Engagement in sexual activities for monetary gains*
- *Low access to knowledge & information*
- *Sexual abuse & exploitation by service providers*

PART FOUR

4.0. SUPPORTING POLICY AND LEGAL FRAMEWORKS ON CHILD LABOUR

4.1. THE CURRENT LEGAL AND POLICY ENVIRONMENT

4.2. INTERNATIONAL LEGAL FRAMEWORK

1. THE ILO COENTION CONCERNING MINIMUM AGE FOR ADMISSION TO EMPLOYMENT [Convention 138]
2. CONVENTION ON THE ELIMINATION OF WORST FORMS OF CHILD LABOUR [Convention 182]
3. MONITORING OF THE INTERNATIONAL LABOUR CONVENTIONS 138 AND 182

4.3. OTHER UNITED NATIONS CONVENTIONS COMPLEMENTING ILO STANDARDS

1. CONVENTION ON THE RIGHTS OF THE CHILD
2. THE INTERANATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (CESCR)

4.4. NATIONAL POLICY AND LEGAL FRAMEWORK

1. NATIONAL POLICIES ON CHILD LABOUR

4.5. LAWS RELATING TO CHILD LABOUR IN MALAWI

1. THE CONSTITUTION OF MALAWI
2. THE EMPLOYMENT ACT
3. THE TENANCY BILL
4. INSTITUTIONAL FRAMEWORK

4.0. SUPPORTING POLICY AND LEGAL FRAMEWORKS ON CHILD LABOUR

The following information and activities are meant to give participants an overview of the national policy and international legal framework, which support the prohibition of child labour. The legal obligation the Malawi government has undertaken by ratifying the relevant ILO conventions, as well as the resulting obligations of employers will be highlighted.

The approach should also assist in giving the participants a situation analysis so that they can be in a position to know areas where they might add their voices in order to have better and comprehensive legal provisions to be in place. At the same time, they should also be able to know areas where they can lobby the government to follow its international commitments.

4.1. THE CURRENT LEGAL AND POLICY ENVIRONMENT

For employers to be functional, an operational conducive environment is required. A conducive legal environment entails that relevant laws and policies are in place and working. This type of environment can go a long way in assisting both government and employers to work towards eradication of worst forms of child labour. Within Malawi, the establishment of a legal framework for the abolition of child labour, along with mechanisms for its enforcement, is a responsibility that government has to take up. It is noteworthy in this regard that the government of Malawi has taken some steps to legislate on child labour. As a result we have some legislation dealing with minimum age for admission into employment in Malawi. At the same time however it should be mentioned that there are gaps in the law that need to be filled.

To have a clear law in place is essential in the fight against child labour. Some of the advantages of the law include the following:

- ❑ It translates the aims and principles of international standards
- ❑ It sets the principles, objectives and priorities for national action to combat child labour
- ❑ It creates specific rights and responsibilities
- ❑ It places state authority behind the protection of children

- ❑ It creates common understanding among all stakeholders involved
- ❑ It provides a yardstick for evaluating performance
- ❑ It provides a basis and procedure for complaints and investigations
- ❑ It provides legal redress for victims
- ❑ It provides sanctions for violators

Putting the legal framework in place is clearly only the first step albeit an important one. However practical, effective mechanisms for enforcement are needed to define the responsibilities of each party involved. At the same time, employers should be able to know about the law to be able to use it. Thus raising awareness and legal literacy among children, families and communities about their rights and how to pursue them is an indispensable complement to legal reform.

4.2. INTERNATIONAL LEGAL FRAMEWORK

Employers in Malawi should be aware of all the key international instruments that deal with the elimination of child labour. International instruments set minimum standards for the protection of children against worst forms of child labour. These standards can be used at the national level to set national policy and legal frameworks. International legal instruments are binding on states that have ratified them. **Ratification** is a process whereby a state party undertakes some formal commitments and agree to be bound by the obligations contained in the convention. Malawi has ratified eight core ILO conventions. One of the conventions Malawi has signed is the one on Worst Forms of Child Labour. By ratifying the Worst Forms of Child Labour Convention [convention 182], has agreed to take immediate and effective measures to secure the prohibition and the elimination of the worst forms of child labour.

Additionally, Malawi is also a state party to the relevant United Nations Conventions that complement the ILO convention in terms of eliminating the worst forms of child labour. This includes the United Nations Convention on the Rights of the Child (CRC)

The eight-core ILO convention referred to above and that Malawi has signed and ratified are:

1. Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87)

2. Right to Organize and Collective Bargaining Convention, 1949 (No.98)
3. Forced Labour Convention, 1930 (No.29)
4. Abolition of Forced Labour Convention, 1957 (No.105)
5. Discrimination (Employment and Occupation) Convention, 1958 (No.111)
6. Equal Remuneration Convention, 1951 (No.100)
7. Minimum Age Convention, 1973 (No. 138)
8. Worst Forms of Child Labour Convention, 1999 (No.182)

Out of these, the most important ILO conventions concerning child labour, which Malawi has ratified and which we will highlight, are:

- The ILO Convention concerning the Minimum Age for Admission to Employment [Convention 138]
- Worst Forms of Child Labour Convention [Convention 182]

4.2.1. THE ILO CONVENTION CONCERNING MINIMUM AGE FOR ADMISSION TO EMPLOYMENT [Convention 138]

The International Labour Conference adopted the ILO Convention 138 concerning the minimum age in employment in 1973.

MAIN HIGHLIGHTS OF CONVENTION 138

- One of the specific areas that the convention deals with is to demand that there has to be criteria for determining what is socially and legally allowed and, what is not allowed.
- The states that ratify the convention must specify a minimum age under which they will not admit children to employment or work or in any occupation, except in those exceptions provided for in article 2 of the Convention. One of the exceptions is that countries may initially specify a minimum age of 14 years, after consultation with the organizations of employers and workers concerned.
- The Convention also aims at protecting children and adolescents under 18 years of age from hazardous work which “by its nature or the circumstances in which it is carried out, is likely to jeopardise their health, safety or morals.
- The state parties are obliged to establish a list of employment that is deemed hazardous.

A full text of Convention 138 is attached in the appendix.

4.2.2. CONVENTION ON THE ELIMINATION OF WORST FORMS OF CHILD LABOUR

[Convention 182]

The International Labour Conference adopted the ILO convention 182 concerning the worst forms of child labour in 1999

MAIN HIGHLIGHTS OF CONVENTION 182:

- It defines the worst forms of child labour as the engagement of children under 18 in: all forms of slavery and similar practices; child prostitution and pornography; illicit activities and hazardous work.

- It provides that hazardous work shall be defined by a competent national authority after consultations with organizations of employees and employers

Convention 182 requires ratifying states to;

- Take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency;
- Design and implement programmes of action to eliminate the worst forms of child labour, in consultation with employers' and workers' organizations and other concerned groups, and monitor the implementation of such programmes;
- Take measures to prevent the engagement of children in child labour, and remove children from worst forms of child labour
- Take measures to enforce the provisions of the Convention, including penal or other sanctions
- Ensure access to free basic education
- Take account of the special needs of girls and other children at special risk
- Assist one another in giving effect to the Convention

A full text of Convention 182 is attached in the appendix.

4.2.3. MONITORING OF THE INTERNATIONAL LABOUR CONVENTIONS 138 AND 182

When a country has ratified a convention under ILO, it is submitting itself to the international system for supervision. This system includes an obligation for each country to be submitting reports to the ILO. The reports will be on the progress of implementation as well as the challenges and successes a country are facing in her efforts to apply the relevant conventions.

Regular supervision under ILO conventions is entrusted to the Committee of Experts on the Application of Conventions and Recommendations and also the Committee on the Application of Standards of the International Labour Conference.

4.3. OTHER UNITED NATIONS CONVENTIONS COMPLEMENTING ILO STANDARDS:

4.3.1. CONVENTION ON THE RIGHTS OF THE CHILD

The United Nations has adopted a number of instruments that complement ILO child labour standards in the fight against child labour. This is through a framework protecting children's rights. The most comprehensive of the UN conventions on children, is the Convention on the Rights of the Child. The UN General Assembly adopted it in 1989. It lays down a range of children's rights and, several of its provisions closely relate to the ILO standards.

The United Nations Convention on the Rights of the Child has some important principles that include the following:

- The best interest of a child.
- Non-discrimination and equality of all children
- Childs' participation in matters pertaining to his/her welfare
- Survival and development of the child.

Although the Convention on the Rights of the Child (CRC) has several articles, some of the most relevant when it comes to child labour are:

- Article 28 which confirms a children's right to education
- Article 32 of CRC gives children the right of the child to be protected from economic exploitation and any work that is likely to:
 - Be Hazardous
 - Interfere with a child's education
 - Be harmful to a child's health and to the physical, mental, spiritual, moral or social development.
- Article 33, which requires measures to be taken to prevent the use of children in illicit production and trafficking of drugs
- Article 34 which protects children against sexual exploitation
- Article 35 requiring the prevention of abduction, sale and trafficking of children for any purpose
- Article 36 which protects children from any exploitation prejudicial to any aspects of the child's welfare

4.3.2. THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (CESCR)

According to article 10.3. Of the International Covenant on Economic, Social and Cultural Rights (CESCR), children and young persons should be protected from economic and social exploitation. Their employment in work, which is harmful to their morals or health or dangerous to life or likely to hamper their normal development, should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

4.4. NATIONAL POLICY AND LEGAL FRAMEWORK

4.4.1. NATIONAL POLICIES ON CHILD LABOUR

From the year 2000 there has been increasing official awareness and effort to intervene in Matters of child labour, partly as a result of the Malawi Government's ratification of the international instruments, and partly also as due to the compelling efforts of the ILO. Following the ratification of the ILO Conventions, the Ministry of Labour established a Steering Committee on Child Labour with membership from government, donors, employers, trade unions, and other civil society organisations. The Committee formulated an action plan on the elimination of child labour in the country. There have also been changes within the structures of the Ministry itself. A special unit was created within the Ministry, with officers specifically designated to coordinate activities relating to the elimination of child labour. Among others, the unit has been responsible for the following activities:

- Reviewing all labour-related legislation in collaboration with the Malawi Law Commission
- Training labour inspectors in the issues of child labour
- Training labour inspectors to prosecute child labour cases in line with the law, and with support from the ILO/IPEC programme
- Conducting an awareness and sensitisation campaign for employer and worker organisations on matters of child labour
- Developing a code of conduct for the employment of child labour
- Monitoring the implementation of the code of conduct by the employers
- Reviewing policies dealing with discrimination and occupation safety, particularly in the light of HIV/AIDS

It is difficult to determine the effectiveness of these interventions given that there have not been any programme evaluations. If any, they have not been made public.

4.4.2. CORPORATE SOCIAL RESPONSIBILITY

In recognising the importance of corporate social responsibility, the International Organization of Employers (IOE) produced a position paper on corporate social

responsibility. Corporate social responsibility are voluntary initiatives that employers or business may undertake in a diverse range of social, economic and environmental areas. As these are voluntary in nature, they look beyond legal compliance by the employer. Corporate social responsibility provides an opportunity to employers to contribute to initiatives in the community or in the market place. Corporate social responsibility can be undertaken by both big and small business. Although as employers our major concern may be to make profit, corporate social responsibility can assist to enhance our image.

Corporate Social Responsibility can be a tool that can be used to fight child labour in Malawi. This is because the initiative may be used to support activities that prevent children from being engaged in child labour. This may include support to education and other social activities. It may also assist employers to work closely with communities on activities to combat child labour. In summary the essential components of Corporate Social Responsibility (CSR) that may also encourage combating child labour are as follows:

- Business is integral part of the society and is committed to operate in a responsible and sustainable manner alongside other actors.
- CSR is a positive business driven response to the business environment of today
- CSR is multidimensional concept covering social, economic and environmental concerns and is continually evolving.

In conclusion, it be noted that corporate social responsibility is voluntary in nature. Although the primary aim of business is creating wealth, many companies see the value of CSR as a means of engaging with other stakeholders. CSR may also reaffirm a company's commitment to ethical and moral standards and thus encourage the prevention of child labour.

4.5. LAWS RELATING TO CHILD LABOUR IN MALAWI

Legislation that follows a well-developed policy statement is generally good because of the logical thinking and consultations that go with the development of the policy. It would help then if Government began to develop a clear policy on child labour in liaison with relevant stakeholders including employer Organizations and Labour Unions.

There are five pieces of legislation that govern labour in Malawi. Apart from that, the constitution of Malawi is important as it gives an overall framework for the protection of

human rights, including those of children. It is important that issues of child labour be included in these laws. As of now, only one of these laws has explicit references to child labour. The five pieces of legislation on labour are: Labour Relations Act, No. 16 of 1996; Occupation Safety, Health and Welfare Act, No. 21 of 1997; Technical, Vocational and Entrepreneurship Training Act, No. 6 of 1999; Employment Act, No. 6 of 2000; Workers Compensation Act, No. 7 of 2000; and The Tenancy Bill (2005)

We will examine some of them to highlight relevant areas of interest and concern.

4.5.1. THE CONSTITUTION OF MALAWI

The starting point is the Republic of Malawi Constitution adopted in 1995 following the transition from a one party regime to multiparty democracy.

In its section 23 the Malawi Constitution defines as a child any person who is under the age of 16 years and provides the rights of children regardless of the circumstances of their birth. Children are entitled to equal treatment before the law, to be protected from economic exploitation or any treatment, work or punishment that is, or is likely to be hazardous, interfere with their education, or be harmful to their health or to their physical, mental or spiritual or social development.

In section 25 the Malawi Constitution states that all persons are entitled to education; and section 26 (3) prohibits forced labour and any tied labour that amounts to servitude. Section 31 covers issues of labour and states that every person shall have the right to fair and safe labour practices and fair remuneration, and every person shall be entitled to fair wages and equal remuneration for work of equal value without distinction or discrimination of any kind, and in particular on bases of gender, disability or race.

The Constitutional provisions are therefore wide enough and applicable to all matters of child labour. In fact, from what has been said above about the employment of children in the tea estates, there are grounds enough to argue that there are some constitutional violations worth addressing.

4.5.2. THE EMPLOYMENT ACT

The Employment Act regulates the conditions of employment in Malawi. Among other things, the Act sets out minimum wages as well as other issues such as leave days, notice and other related issues.

In addition to the Constitution, Malawi has specific laws with provisions on child labour. The Employment Act of 2000 is the key one. Part (IV) of the Act has provisions that are specific to child labour. Among these are:

Section 21 (2) prohibits the employment of persons under the age of 14 years in any private agricultural, industrial undertaking or any branch thereof. This, however, does not apply to work done in homes, vocational training technical schools, or other training institutions. This provision gives a clear legal obligation to employers for them to refrain from engaging in child labour. Failure to comply with this provision is a violation of the law and can lead to criminal prosecution. This obligation also places a duty on employers to check and verify the age of a child before engaging him or her in employment.

Section 22 (1) states that no person between the ages of 14 and 18 years shall work or be employed in any occupation or activity that is likely to be:

- (i) Harmful to health, safety, education, morals or development of such a person;
- (ii) Prejudicial to his attendance at school or any vocational training programme.

Hazardous work, as already defined, is any occupation or activity that is likely to be harmful to the child's health, safety, education, morals or development; or prejudicial to the child's attendance at school or any other vocational training programme. However, the Employment Act has not defined hazardous work.

Section 23 compels every employer to keep a register of any person under the age of 18 years employed by or working for him.

4.5.3. PUNISHMENT FOR ENGAGING IN CHILD LABOUR

Engaging in child labour is a criminal offence punishable under the law for those who are found guilty. The Employment Act in section 21 provides 14 years as a minimum age across all sectors. A punishment of 5 years imprisonment and a fine of K20000 are imposed on those found guilty of perpetrating child labour in section 24. Meanwhile, the Law Commission has proposed a review of the provision by increasing the fine to K100,000. This was due to concerns from different stakeholders who pointed out that the punishment was too lenient.

Apart from the criminal law punishment, companies implicated in child labour may suffer from a bad reputation. Additionally, their goods and services might face sanctions in national and international markets.

4.5.4. THE TENANCY BILL

In addition to the other laws already in place, there is the Tenancy Bill (2000), which has been drafted. If passed by parliament, this would address some of the problems faced by children of tenant farmers. The tenancy bill has provisions that also protect the tenants' children from being exploited. The bill is yet to be passed into law. A tenancy policy was developed with wide consultations; a bill drafted and passed on to the relevant Government channels for tabling in Parliament but it is yet to be tabled.

The Bill, among other things, provides for the rights of tenants and duties and obligations of the landowners. It seeks to prohibit child labour and provides for punishments for those contravening the same. So far no convincing reasons have been given as to why the bill has never been to Parliament. This could be an area where interested collaborating organizations can decide to do some advocacy.

4.5.5. INSTITUTIONAL FRAMEWORK

In addition to the legal and policy frameworks, there is an institutional framework for the possible design and implementation of partnership intervention strategies in matters of child labour in the study area. The starting point is government departments, particularly the Labour Offices, the Social Welfare Offices, the Education Offices, the Police Service and the Magistrate Courts.

The District Labour Offices have both the legal and policy mandates to handle matters of child labour. Among others, they have the legal powers to inspect employment places, to receive and maintain employment registers and to prosecute offences relating to labour laws.

PART FIVE

5.0. STRATEGIES FOR ELIMINATING CHILD LABOUR AND KEY RESPONSIBILITIES OF EMPLOYERS AND OTHERS

1. THE PREVENTION STRATEGY

2. WITHDRAWAL AND REHABILITATION OF CHILDREN FROM HAZARDOUS WORK

3. PROTECTION

5.1. WHAT EMPLOYERS SHOULD DO TO STOP CHILD LABOUR IN MALAWI

5.2. EMPLOYERS' ROLE IN MONITORING CHILD LABOUR

5.3. THE ROLE OF THE CONSULTATIVE ASSOCIATION OF MALAWI

5.4. THE USE OF A CODE OF CONDUCT FOR ELIMINATING CHILD LABOUR

5.5. WHAT EMPLOYERS SHOULD BE AWARE OF WHEN WORKING WITH OTHERS TO ADDRESS THE WFCL AND OTHER FORMS OF CHILD LABOUR?

1. LOCAL COMMUNITY INVOLVEMENT WORKING WITH NGOS:

2. WORKING WITH TRADE UNIONS:

3. GOVERNMENT

4. HOW CAN EMPLOYERS WORK WITH GOVERNMENT

5.0. STRATEGIES FOR ELIMINATING CHILD LABOUR AND KEY RESPONSIBILITIES OF EMPLOYERS AND OTHERS

The following information and activities will be geared towards empowering employers to take up their roles in eliminating worst forms of child labour. The roles and responsibilities of other key stakeholders will also be discussed here. Parents and families, who are given a viable choice, prefer to keep children out of the workplace and use other options.

The issue of child labour cannot be resolved overnight. As one of the top priorities we should prevent and eliminate hazardous child work. This is a complex task and will often involve Government policies aimed at promoting adult employment, raising incomes and improving living standards. ILO's strategies are putting increasing emphasis on poverty alleviation as well as on expanding and improving institutional mechanisms for education and law enforcement.

TRAINING ACTIVITY

AIM:

To discuss strategies on child labour

TASK:

Participants should discuss and come up with some critical points, which, from the employers' point of view, can assist to eliminate child labour

The work and efforts to eliminate child labour, and particularly hazardous child labour industry, are based upon the hierarchy of prevention, withdrawal, and protection, which are all, outlined below.

5.1. THE PREVENTION STRATEGY

Prevention is the long-term goal and it is based on identifying children at potential risk and stopping them from starting hazardous work, and from entering the workplace.

Investment in the prevention of child labour is the most cost-effective approach in the long run:

- Families need income security and social benefits, such as health insurance, in order to survive the short-term and long-term crises
- Parents must be able to see investment in education as a viable option for their children
- The State can help by providing start-up funds, matching workers' contributions and developing supportive laws
- Self-help groups can provide assistance through co-operatives, mutual benefit societies and so on, that are usually financed by beneficiary contributions
- The educational system also plays a critical role in preventive policies and actions by ensuring availability of places in schools, adequate numbers of trained teachers, and good standards of education.

TRAINING ACTIVITY

AIM:

To examine possible challenges in the prevention strategy

TASK:

Employers may get involved in preventing children from being engaged in hazardous work. At the same time, there might be challenges that may be faced. Discuss and indicate what these challenges may entail. How would these affect the employers' ability to contribute to eliminating child labour?

5.2. WITHDRAWAL AND REHABILITATION OF CHILDREN FROM HAZARDOUS WORK

Withdrawal (and rehabilitation) of children already carrying out hazardous work is another central strategy. Withdrawal involves three main processes:

- Identifying those children in hazardous work
- Removing them from workplaces, and
- Getting them into school and/or skills training

Employers can add value to their work by ensuring that they cooperate with others in efforts to withdraw and rehabilitate children from worst forms of child labour. Children in the worst forms of child labour need urgent action for rescue and rehabilitation. Measures used to withdraw children from hazardous work include:

- Persuasion, through dialogue with parents, children, employers or law enforcement authorities
- Awareness raising

Experience shows that community-based, integrated solutions tailored to the specific needs of each target group, with close community participation, are the most effective. There is also a need to match interventions to the age of the child removed. There should always be a strong link between transitional education programmes (rehabilitation programmes) and the formal education system, since basic education will ensure opportunities for further education and employment.

Educational interventions from children removed from hazardous work are related to the approximate age of the child and depend on the level of her/his literacy and psychosocial development, as well as the age brackets defined by the child labour conventions.

Withdrawal in the context of family farms has a special meaning, in that whilst the children are withdrawn from dangerous work situations, they continue to live on the farm, as it is their home. The challenge is to ensure that withdrawn children are sent to school.

5.3. PROTECTION

Protection is based upon the reality that many children remain in the workplace in the short term:

- Whilst prevention and withdrawal strategies are pursued, or
- Because they have achieved the current minimum working age in their country (14-17 years, depending on national legislation)

These children remain at risk. So, there is a need to protect them whilst at work by improving occupational safety and health (OS&H) and working conditions and arrangements in the workplace. The basis for improving OS&H standards and protection is by strengthening risk management in the agricultural undertaking. A key operational aspect of management is commonly called risk assessment and has three closely-interlinked stages:

1. Identifying the **hazard** which we can define as:
“The potential to cause harm” - which can include such things as transport, machinery, long hours, and chemicals, tools, and processes
2. Assessing or evaluating the **risk** which we can define as:
“The likelihood that the harm from a particular hazard is realised.” As we have already seen, the risks for children are often greater
3. Adopting protection and control measures to ensure the safety and health of workers, and ensuring compliance with health and safety standards

5.4. WHAT EMPLOYERS SHOULD DO TO STOP CHILD LABOUR IN MALAWI

One of the biggest challenges in relation to child labour is the fact that the vast majority takes place in the informal economy and is consequently extremely difficult to reach. Employers can be successfully involved in positive and innovative programmes to reach even the most difficult target groups.

An effective way of doing so is through the national employers' organizations like ECAM, which can, play many important roles by virtue of their unique place in society.

TRAINING ACTIVITY: Eliminating child labour

AIMS

To help us to:

- Identify risks to children
- Consider ways of eliminating child labour

TASK

In your small group, look at the case study below and then discuss the questions.

Case study

There was a tobacco farmer named Phiri who had a 13-year-old son named Kutherani. Phiri went to their farm to harvest his tobacco accompanied by his son. After harvesting, Phiri loaded the tobacco into bags weighing approximately 50 kilograms each. Phiri carried these bags himself and also expected Kutherani to carry them. Although the tobacco was too heavy for Kutherani, he did not complain since his father carried bags himself. He also felt he should obey his father out of respect. After some time, one day while carrying a load, Kutherani collapsed. Phiri picked the boy up and rushed him to the clinic. The doctor examined Kutherani and found that he had sustained a spinal injury.

1. Discuss the risks that children face when moving or carrying heavy loads
2. Who do you think is responsible for the injury to Kutherani?
3. How can we eliminate such forms of hazardous child labour in our own communities?

Elect a spokesperson to report back with your group's views

5.4.1. EMPLOYERS' ROLE IN MONITORING CHILD LABOUR

Employers can get involved in monitoring child labour. The development of a national Child Labour Monitoring System (CLMS) can be divided roughly into three phases:

- The Preparatory phase,
- The Monitoring phase and
- The Follow-up phase.

Employers can be active in all of these phases, and if the CLMS is to become sustainable and credible, employers *must* be active in all of these phases. Some possible roles for employers and their organisations are presented in the following sections.

5.4.2. WHAT EMPLOYERS CAN DO?

The preparatory phase:

The determination of the problem and the best strategy to deal with it takes place during this phase. The concept of child labour, and in particular its worst forms should be comprehensively defined and an assessment of the frequency and geographical concentrations of child labour should be undertaken. This stage also includes awareness-raising in society in general and building partnerships to create the functional base for future action.

In order to create the maximal political will and community commitment in support of the future CLMS, employers and, especially, their national organizations should be active when the problem is defined, and particularly when the worst forms are defined, so that possible concerns and sector specific information are taken into account. Employers can provide important information concerning how to outline the most realistic action plan and they can provide help when policy priorities are defined. All this helps ensure that

employers are integrated as active and innovative members in the coming monitoring system and prevent them from becoming simply passive objects of monitoring visits.

The monitoring phase:

This is the stage when workplaces are monitored and the monitoring of school attendance is undertaken. When children are found working, they are either withdrawn immediately or an effort is made to reduce the hazards they are exposed to. Information gathered during this phase is aggregated and used for purposes of national policy development. Employers' organisations can use the information they possess about the worksites and factories, to help sketch and organise the monitoring schemes. Companies should also be encouraged to open their worksites for inspections and to provide the most up-to-date data about their workers.

One of the major challenges that business may face is control of 3rd parties service contractors in the supply route chain. It is important that business puts in place checks to ensure that their suppliers do not use child labour. It would also assist if a company can develop a simple guideline for use to verify that products from suppliers are not using child labour. This will assist to protect a company's image. Further, if a business has taken all the necessary measures, it would not only assist to root out child labour but it would also go a long way in protecting the company itself.

The follow-up phase:

During the follow-up phase, the children withdrawn from work are to be provided schooling or other social activities. The firms can take part in this action by cooperating with educational agencies in order to plan vocational or non-formal education schemes. Also, continuous work for a change of attitudes amongst parents and the community at large about the risks of child labour is an important tool so that new children do not enter the labour market. An important element of this phase is the analysis of information gathered during the monitoring phase for a broader, national level policy rethink and resource allocation concerning the educational budget, labour administration, social and health issues, etc.

5.5. THE ROLE OF THE CONSULTATIVE ASSOCIATION OF MALAWI

ECAM as an employer's body has a greater chance to succeed in coordinating efforts on child labour than that of any individual firm. As they represent the collective will of their members and as the work done at the national level for child labour monitoring is mostly concerned with general institution building or awareness-raising ECAM can more efficiently put forward employers' concerns.

In the Child Labour Monitoring System building process, ECAM could:

- Promote the ratification of and the actions required by the ILO's child labour Conventions on the Minimum Age (No.138) and on the Worst Forms of Child Labour (No.182) as well as the UN Convention on the Rights of the Child (and their Recommendations);
- Mainstream child labour issues into national policy making and planning as well as promote the concept of "Good Governance" and its implementation at every political level;
- Cooperate with Government, trade unions, the academic world and NGOs, to form a comprehensive partnership network and thus create a robust base for further monitoring efforts;

ECAM is well positioned to play its as it is mandated by its constitution to deal with issues concerning employers. Further, ECAM is the recognised employers' organization in Malawi and is a representative social partner in the tripartite arrangement. It is also an affiliate of the International Organization of Employers (IOE). More importantly, ECAM and its affiliates are concerned with the prevalence of child labour in Malawi and believe that all the social partners, the government and all key stakeholders need to get involved to effectively combat it.

As an association, ECAM was established in 1963 and is registered under the Trustees Act. Its primary role is to serve, represent, promote and protect employers' interests in labour, employment and socio-economic issues. ECAM also creates capacity and leadership to employers in dealing with crosscutting issues such as HIV/AIDS, gender and child labour.

TRAINING ACTIVITY: Tackling child labour

AIMS

To help us to identify:

- The responsibilities of employers and workers
- Our own feelings about hazardous child labour
- Ways that child labour can be tackled

TASK

Read the short case study below:

Case study

On a commercial tea plantation, there are three 14-year-old workers who have recently been supplied with personal protective equipment (PPE) for use when they are spraying pesticides. Management did not consult the workers on the choice of PPE. The 14 year old workers do not wear the equipment because it does not fit properly and is uncomfortable. The manager takes no notice as he says that it is their choice.

1. In your small group, look at the statements below and agree which *one* you *most agree with* and the reasons why.
 - “The 14 year old workers should be withdrawn immediately from the plantation. No child should work with pesticides whether they have PPE provided or not.”
 - “The workers should wear the PPE, because any form of protection is better than none.”
 - “The 14 year old workers should be disciplined for not wearing safety equipment.”
 - “Management are criminally responsible for this situation and should be fined by the courts.”
 - What can be done to prevent the type of child labour identified in the case study?

5.6. THE USE OF A CODE OF CONDUCT FOR ELIMINATING CHILD LABOUR

A code of conduct or other relevant policy by employers' organizations can have a major impact on eliminating child labour. This is because the employers themselves voluntarily agree upon such a code or policy. Employers in Malawi could use a policy by ECAM to guide their actions. What could be contained in the policy would include the following.

That the Employers Consultative Association of Malawi recognises:

- ☞ The illegality of child labour in Malawi
- ☞ The national and global efforts to progressively combat all forms of child labour in line with National Legislation and International legal instruments such as the Convention on the Rights of the Child (CRC) and the two ILO Conventions 138 & 182 on Minimum Employment Age and Worst Forms of Child Labour respectively,
- ☞ That a child, during child hood, has a right to education and that every effort must be made to ensure that this is respected,
- ☞ While that some work is not harmful and is necessary for the child social development, in certain instances however, the volume or type of work is detrimental to a child and it also affects the child's right to education, survival, growth and development and is generally against the best interest of a child,
- ☞ That employing children can have direct negative impact on business since, amongst other problems, children who work instead of going to school may have fewer opportunities to become skilled adult workers hence ultimately affecting the employment pool,
- ☞ That employing children can negatively affect the public perception of the company and its corporate social responsibility agenda,
- ☞ That while business has an important role to play, its role cannot be seen in isolation of the role that other important social actors such as Government, Trade Unions, Civil Society and the Community must also play,

ECAM could oblige its members and prohibit them from child labour. Some of the issues could be the following:

- ☞ Prohibition of ECAM members from employing children younger than 14,

- ☞ That no member employer of ECAM shall employ young persons between 15 and 18 in work situations that may deprive the person's access to education and would be harmful to the child's physical, psychological and moral survival, growth and development,
- ☞ ECAM shall encourage its member employers to create and maintain a safe, healthy and equitable working environment for young persons.
- ☞ ECAM shall encourage its member employers to seriously examine its supply chain and ensure there is no contamination of child labour in the services provided by any contractor, supplier or service provider.

5.7. WHAT EMPLOYERS SHOULD BE AWARE OF WHEN WORKING WITH OTHERS TO ADDRESS THE WORST FORMS OF CHILD LABOUR

The distinction between the WFCL and other forms of child labour is presented in this document to promote clarity of meaning and to assist in setting priorities in addressing the issue of child labour. Other actors may not make such a distinction and their goal may be to target all child labour without distinction. Employers should, therefore, be cognisant of the priorities of other actors to ensure that its goals and priorities are being met in any collaborative efforts.

The elimination of the WFCL requires collaborative effort given its complexity. Employers in Malawi are encouraged to work alongside other stakeholders who share the same objectives. It is important to identify and promote synergies between stakeholders. To increase the chances of providing effective long-term solutions for children and their families.

There are many possible groups and organizations that companies can partner with employers' organizations; consumer associations; the media; non-government organizations ("NGOs"); local communities; and trade unions. The following are comments about the three most common and natural partners for employers, namely: local communities, NGOs and trade unions.

5.7.1. LOCAL COMMUNITY INVOLVEMENT:

Because of the potential impact on the social, economic and institutional development of the communities in which they operate, it may be useful for employers where

appropriate, to solicit community-based participation. Employers can benefit from community engagement, which can lead to open, transparent and effective strategies against child labour. It can help to promote a respect for the culture, customs and values of the individuals and groups, including customers and employees, whose livelihoods may be affected by the actions of employers. Engaging the support of the community may also reduce the likelihood of children simply moving between employers or sectors.

In this regard, community education and mobilisation are essential with the recognition that agricultural child labour is hazardous. Work on the farm often demands too much of children, requiring them to labour long hours that keeps them from school and takes too great a toll on their developing bodies. Such work can prevent children from exercising their rights and developing to their full potential.

Rural communities must have alternatives to child work, in particular education facilities for all children. Extending and improving schooling for the poor - especially for girls - is the single most effective way to stem the flow of children into abusive forms of work. But rural communities face the worst educational services. Special efforts therefore need to be made to ensure adequate school provision, allied to improvements in the quality, flexibility and relevance of education, so as to improve the demand for education from poor parents. Incentives must be found to break the rural tradition of child labour at the expense of child development.

Child labour cannot be tackled in isolation from rural poverty, particularly that of agricultural and plantation workers and small farmers. Measures have to be taken to improve the incomes/livelihoods of adult workers so children are not obliged to work to try to get the family a living wage.

5.7.2. WORKING WITH NGOS:

A number of NGOs have shown themselves to be innovative and dynamic in addressing both the WFCL and other forms of child labour and there are examples of successful working relationships between NGOs and companies.

In order to ensure that partnerships with NGOs are constructive, it is important to clarify expectations from the outset. Only the company is in a position to know what is and is

not possible for it to accomplish. This includes expectations around time lines, resource allocation and expected results. Similarly, a company should carefully consider whether to accept NGOs' assistance with monitoring since these arrangements have been known to work against the interest of companies.

5.7.3. WORKING WITH TRADE UNIONS:

Trade unions are another potential ally. The issue of child labour, which often simply includes both the WFCL as well as other forms of child labour, is increasingly forming part of the collective bargaining process. To the extent that any commitments are made in this context, it is important that employers clearly understand the impact of these commitments. A trade union may not be in a position to understand the extent or limitations of a company's influence and reach over such parties as contractors and subcontractors. Though companies should strive to influence the third parties with whom they do business to adhere to ethical business standards, a trade union's expectations in this regard may be difficult to achieve.

As representatives of employees, trade unions have a crucial role to play including the following:

- Put pressure on management for gradual elimination of child labour
- Awareness raising to employees, employers and general public on the evils of the worst forms of child labour
- Monitoring development of child labour
- Engagement in collective bargaining with employers about ways to avoid and eliminate child labour
- Playing a watchdog role
- Establishing structures for eliminating worst forms of child labour in the work place
- Utilizing supervisory mechanisms of international instruments
- Directing assistance to working children and their families

5.7.4. HOW CAN EMPLOYERS WORK WITH GOVERNMENT

A number of government departments will be actors in the fight against the worst forms of child labour. These would include the ministries of gender, health and labour. Apart from other activities, Government is the prime facilitator of poverty reduction. Government can also be seen as a key provider of civic education and legislation for the reduction of child labour. It has been made clear that legislation against child labour, no matter how good or comprehensive would be ineffective without addressing the main cause of poverty. Below are some suggested key roles of government:

- Enact Legislation for the fight against child labour in education, on employment of children, among other areas.
- Enforce legislation that has been enacted to deal with child labour
- Promote poverty reduction

Government has a unique role in the context of the WFCL. Government must establish and promote the necessary conditions and regulatory environment to stimulate productive employment. This role must be clearly distinguished from the role of employers.

Employers must respect the authority of the governments. This requires, first and foremost, that every employer fully adheres to all applicable labour laws and regulations. A government's inability to enforce its laws, due to lack of capacity or other challenges, does not alter the employer's obligations in this respect. Employers should not be seen to be taking advantage of any opportunities created by the difficult obstacles many governments face.

Notwithstanding the foregoing, employers can and should partner with government and support its efforts in addressing child labour, particularly the worst forms of child labour. This can be accomplished in a number of ways, including but not limited to promotion, training or partnerships in specific programmes.

CONCLUSION

At the end of this Training Manual and Resource Book, users should be able to come up with the next steps they would like to take as ECAM members. The training activity below might assist in this exercise.

TRAINING ACTIVITY 10: Your next steps

AIMS

To help us to:

- Work out a plan for future activity on hazardous child labour
- Identify the steps that we can take

TASK

Identify three things that you will do in relation to hazardous child labour in your workplace/community as a result of this course, and when you will do them. Think particularly about how you can work together with other farmers, trade unions and community groups.

Prepare a report back to the rest of the course with your plan

Evaluation

AIMS

- Find out to what extent the aims of the information has been absorbed
- Decide how the manual could be improved

ACTIVITY Evaluation

AIMS

To help us to:

- Find out to what extent the aims of the course have been achieved
- Decide how the course could be improved

TASK

In your small group discuss the following questions:

- Taking the manual as a whole, did the different sessions meet your needs and interests?
- Which sessions or parts of the course were most valuable to you and why?
- Which sessions or parts of the course were of less or no interest to you and why?
- What suggestions would you want to make to improve future courses?
- Is there any other comment you would like to make?

REFERENCE MATERIALS

References

Useful sources of information

A sample of useful sources of information has been listed below for your further use. These sources have been used to provide information in the manual.

National

- ✓ Employment Act (2000)
- ✓ Constitution of Malawi
- ✓ ECAM Constitution
- ✓ ECAM Study on Child Labour in Commercial Agriculture: The Case of Malawi's Tea Industry
- ✓ The Smoking Business, Tobacco Tenants in Malawi (2000)
- ✓ Malawi Demographic and Health Survey (MDHS) (National Statistical Office in 2000)
- ✓ Copy of the Malawi National Code of Conduct on Child Labour.
- ✓ Malawi National Child Labour Survey report-2002

International

- ✓ A future without child labour - Global Report on the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work 2002
- ✓ International Programme for the Elimination of Child Labour, Training resource pack on the elimination of hazardous child labour in agriculture (2005)
- ✓ International Programme on the Elimination of Child Labour (IPEC)
<http://www.ilo.org/public/english/standards/ipecc/index.htm>
- ✓ Every Child Counts - New Global Estimates on Child Labour ILO (IPEC) 2002
- ✓ Children at Work - Health and safety risks ILO 2002
- ✓ Corporate Social Responsibility, An IOE Approach, 2003
- ✓ The UNICEF child labour resource guide.
- ✓ The IOE paper on Child Labour
- ✓ IPEC Fact Sheets on Child Labour issues
- ✓

<http://www.ilo.org/public/english/standards/ipecc/about/factsheet/index.htm>

ILO Safework (www.ilo.org/public/english/protection/safework/index.htm)