

Child trafficking, Smuggling, Migration

Conceptual clarity & labour dimension

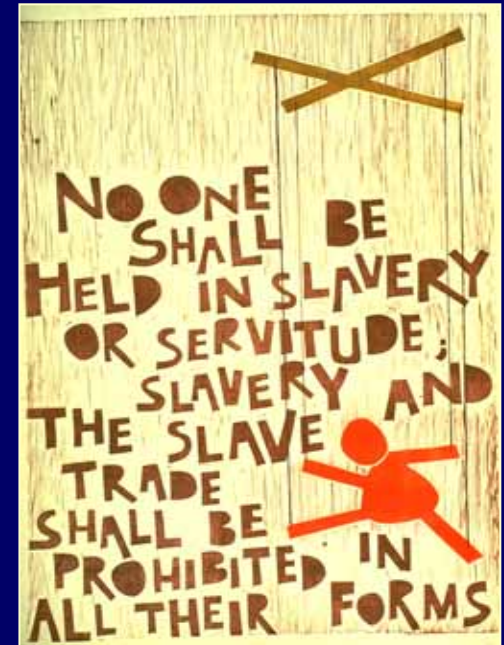
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Contents:

- ILO mandate & policy;
- Understanding child trafficking, smuggling, migration;



ILO mandate

Preamble to ILO Constitution (1919):
Protection of the interests of workers

ILO Declaration on the Fundamental Principles and Rights at Work (1998):

'All member States respect, promote & realize the principles concerning fundamental rights at work'

including rights to be free of :

- Child labour (C 138)*
- WFCCL, including trafficking (C 182)*

ILO policy framework

DECENT WORK FOR ALL

Global Action Plan (GAP) against WFCL formally endorsed in 2007;

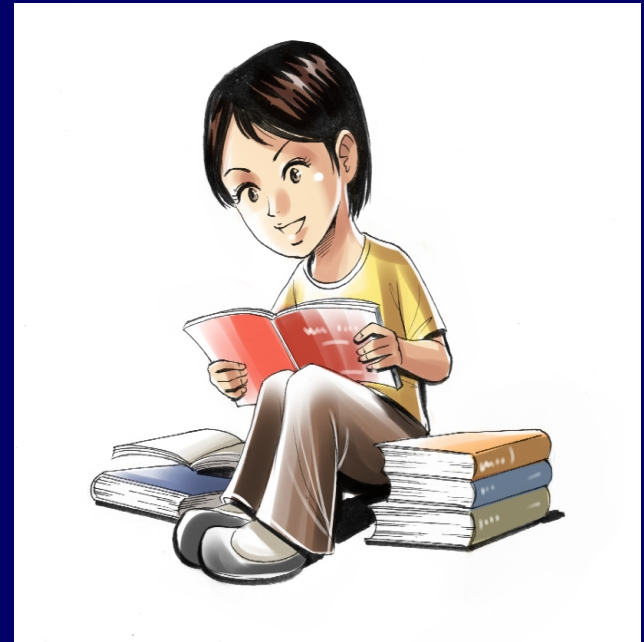
GAP commits all 181 member States to:

- Time bound measures against WFCL by end 2008;
- Elimination of WFCL by 2016;

UN CRC

Important general principles:

- Non-discrimination (Art.2)
- Best interest of the child (Art.3)
- Right to life, survival and development (Art.6)
- Child participation (Art.12)



Articles relevant to child labour/trafficking:

- Right to protection from economic exploitation, hazardous work, work that interferes with education or is harmful (Art.32);
- Right to education (Art.28 and 29);
- Right to be protected from all forms of sexual abuse and exploitation (Art.34);
- Right to be protected from abduction, sale or traffic of children (Art.35);

Child trafficking is a Worst Form of Child Labour

Worst Forms of Child Labour Convention, 1999 (No.182)

Immediate & effective measures to secure the prohibition and elimination of WFCL as a matter of urgency (Art. 1)

WFCL comprises:

- (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” (Art.3(a))
- (b) - (d)...

Concept / definition of trafficking

UN (Palermo) Protocol to prevent, suppress and punish trafficking in persons, especially women & children to the UN *Convention against Transnational Organized Crime (2000)*

3 components:

A) *The recruitment, transportation, transfer, harbouring or receipt of persons;*

Implies some movement/ transaction

B) *By means of threat or use of force or other forms of coercion, of abduction, of fraud, deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person;*

'Means' or 'methods'

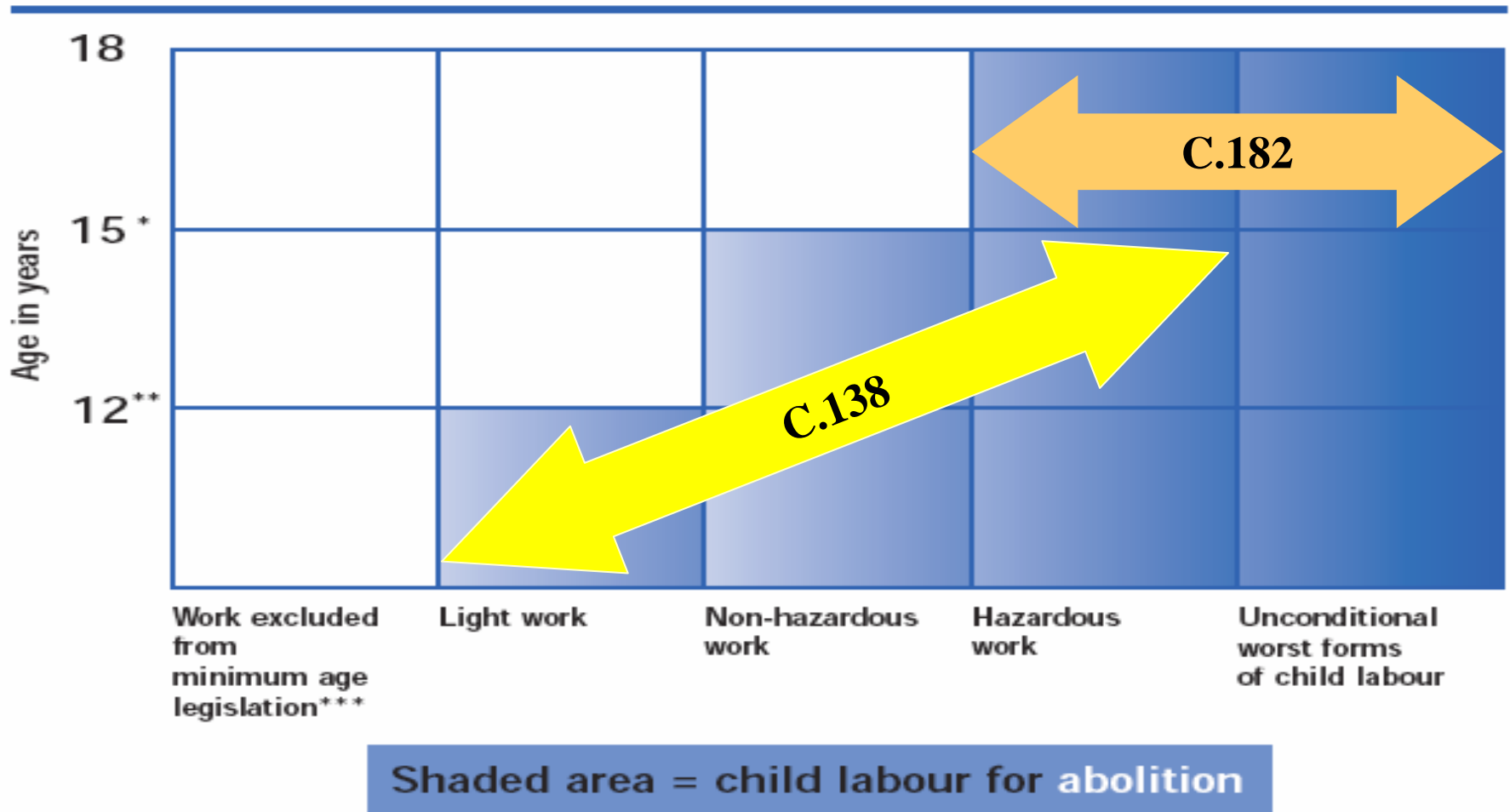
C) *for the purpose of exploitation (shall include, at a minimum the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour, or services, slavery or practices similar to slavery, servitude or the removal of organs);*

End result is exploitation

FOR CHILDREN UNDER 18, 'B' IS IRRELEVANT!!!

Child Labour end results (C 138/182)

Figure 1.1: Basic distinctions in ILO child labour standards



* The minimum age for admission to employment or work is determined by national legislation and can be set at 14, 15 or 16 years.

** The minimum age at which light work is permissible can be set at 12 or 13 years.

*** For example, household chores, work in family undertakings and work undertaken as part of education.

(Child) Trafficking – Components summarized

1. Act - some movement/
transaction to unfamiliar territory

Movement/transaction **within** (often rural to urban) or **across** national borders

Traded as commodity & intent of the trader is material (e.g. labour) or immaterial (e.g. sex) **benefit**

(2.) Means or abuse at any stage of movement
(Irrelevant 4 children)

E.g. Deception; Use of violence & threats; Physical captivity & isolation; Withholding of travel documents; Debt bondage; abuse of position of vulnerability by recruiter, intermediary, transporter, employer

3. End result: A form of 'exploitation'

Sexual exploitation

Forced labour (i.e. bondage, slave-like, servitude)

(Removal of organs)

For ILO also:

Unconditional Worst Form of Child Labour <18(C182)

Hazardous child labour <18 (C182)

Regular work below legal working age (14-15) (C138)

Light work of children below 12-13 (C138)

Smuggling versus Trafficking

Smuggling of a migrant:

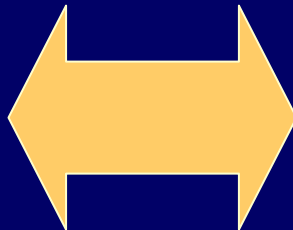
- Provide assistance to migrant to cross a national border illegally;
- Agreement/consent;
- Intention is to assist in illegal border crossing in return for a reward;
- Crossing international border;
- Is crime against immigration law;

See Art. 3(a) of Smuggling Protocol to Transnational Crime Convention

Trafficking of person:

- Deception (at a minimum) for the purpose of exploitation;
- No agreement/consent (or irrelevant due to force or age);
- Intention is to exploit;
- Not necessarily crossing of international border;
- Is crime against person;

See Art. 3 of Trafficking Protocol to Transnational Crime Convention

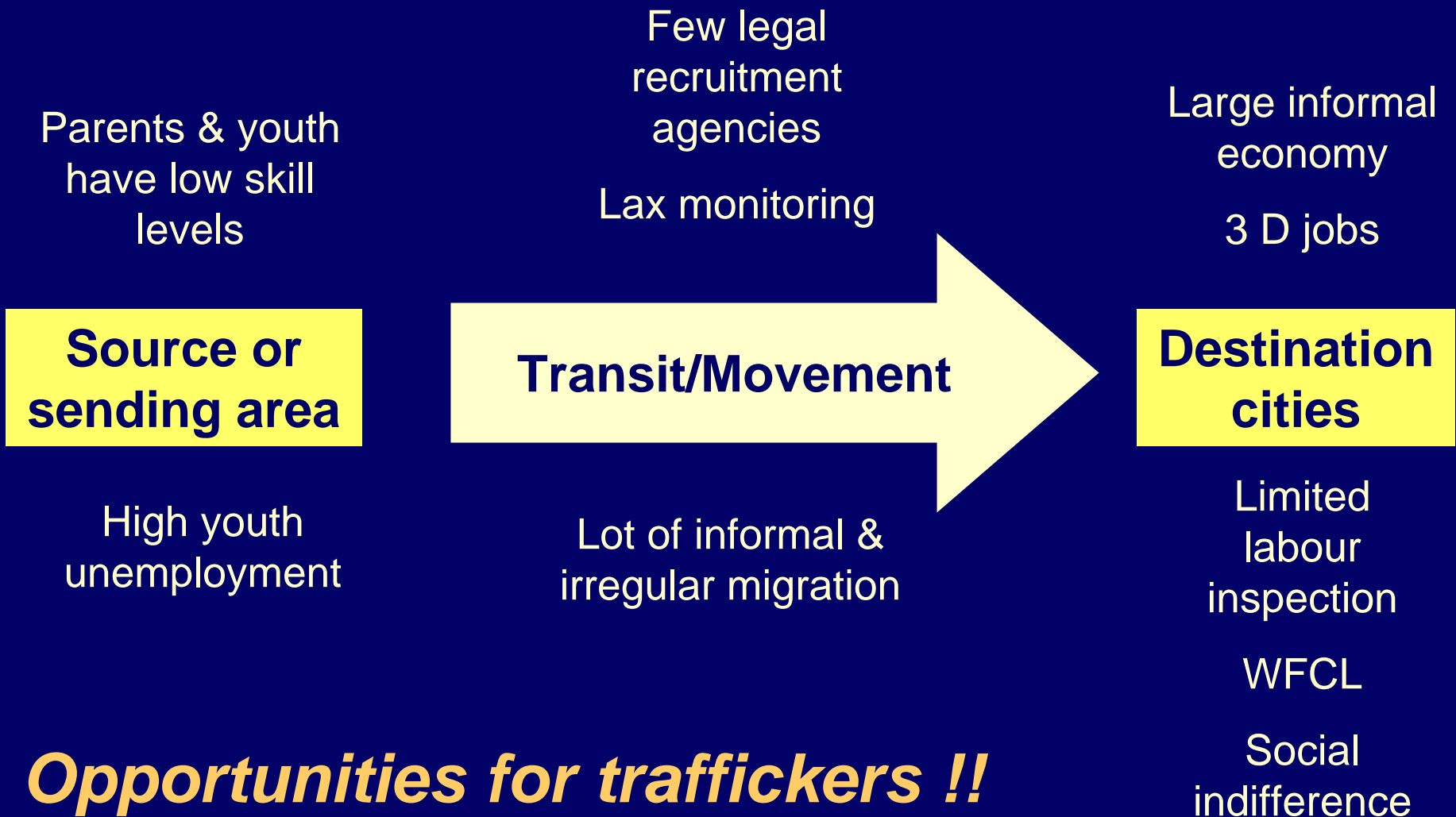


Trafficking in Migration framework

- Rural families lack livelihood options; Youth in particular want to leave villages in search of a better life in cities;
- Without cheap, fast & transparent migration/job placement services youth will migrate irregularly – trafficking risk;
- Unprepared & ill-informed migration puts many at risk of trafficking into labour exploitation;
- Lack of awareness of and access to services increases vulnerability to trafficking;
- Discrimination of girls (limited access to services);



Labour dimension – the downside



Labour dimension – Our aim

Parents & youth
of working age
have decent
jobs

Active
licensing and
monitoring of
recruitment
agencies

Migrants join
trade unions

Employers
have CSR
policy

**Source or
sending area**

Transit/Movement

**Destination
cities**

Children go to
school/training and
acquire skills

Fast, cheap &
transparent services
by registered
recruitment agencies

Working
conditions
monitored

Law enforcement &
prosecution against
traffickers

Public wants
clean
products

No underage
labour

Traffickers have no business

Key points in summary

- Trafficking = recruitment + movement + exploitation;
- Movement to unfamiliar territory (not necessarily cross border);
- 3rd persons intent is to exploit;
- End result: Not just CSEC, also other forms of labour exploitation;
- For children:
 - Especially vulnerable to exploitation
 - Consent is irrelevant
 - End result: any form of child labour (not just forced labour or sexual exploitation)

Useful resources

- UN Convention on Protection of the Rights of All Migrant Workers & Families, 1990
- ILO Migration for employment Convention, 1949 (No. 97)
- ILO Migrant Workers Convention, 1975 (No.143)
- UN Convention on the Rights of the Child (1989)
- ILO Convention on the WFCL, 1999 (No.182)
- 'Palermo' Protocols on trafficking & smuggling
- Resource kit on child trafficking (ILO, 2008)
- *Child Trafficking: ILO's response through IPEC*
- www.ilo.org/childlabour

Thank you for your attention!