INTERNATIONAL CONFERENCE ON CHILD LABOUR

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Legislation and Enforcement
Issues paper

INTERNATIONAL LABOUR OFFICE GENEVA
Background

The struggle against child labour cannot be won through legislative action alone, but it certainly cannot be won without it. The adoption of legislation specifying a minimum age to enter employment, prohibiting child labour in hazardous occupations or activities, and regulating it where it is legally permitted has obvious and vital objectives. It helps establish certain labour norms and standards to which society can aspire and which can be used as a framework for policy, as well as providing a yardstick for evaluating performance and progress. Furthermore, it is one way of moving towards a common set of universal standards and ensuring that certain absolutes enshrined in international covenants and standards with regard to human dignity and human rights, including the rights of children, are observed and respected.

Today, children's rights have assumed enormous importance in both national and international law. The United Nations General Assembly adopted in 1989 the Convention on the Rights of the Child which confers upon children a full spectrum of civil, social, cultural and economic rights. Within this holistic approach, Article 32 of the UN Convention on the Rights of the Child provides children with the right to be protected from economic exploitation. In addition, this Convention provides children with many other rights, such as, for example, the children's inherent right to life (Article 6), the children's rights to the highest attainable standard of health care (Art. 24), the right to education (Article 29) and the right to play (Article 31).

As far as employment of children and young persons is concerned, the International Labour Organization's long-standing normative action on child labour, which started in 1919, paved the way for the adoption in 1973 of the most comprehensive international instrument, the ILO Minimum Age Convention (No. 138), entirely devoted to tackle the problem of the exploitation of working children. This Convention requires countries to bring about the effective elimination of child labour and set minimum ages for admission to employment, light work and hazardous work. Convention No. 138 has been ratified by 55 countries and the number of ratifications is now increasing. However, there is concern regarding the extent to which national policies are consistent with this Convention.

Enforcing child labour legislation still remains a major challenge. In addition, the
coverage of legislation is also found to be inadequate in relation to the kinds of work that children most often perform. Three problem sectors [agriculture, the urban informal sector and domestic service] are especially important today as they account for the vast majority of all child labour in the world, and present serious enforcement difficulties. Paradoxically they are the sectors which national governments most often exempt from minimum age standards.

**Lessons learnt**

1. **Countries should commit themselves to pursue a national policy designed to ensure the effective abolition of child labour.** International and national laws should set the principles, objectives and priorities of such policy, and also provide a conducive environment for the development of national institutional capacities to combat child labour. National governments should also harmonize existing legislation (state and local) on minimum age for employment and on compulsory education. A national tripartite mechanism could be established for this purpose.

2. **The need for practical action to complement legislation combating child labour.** Laws, although indispensable for the fight against child labour, cannot by themselves solve the problem of child labour. They need to be complemented by socio-economic policies and programmes which provide for universal access to quality education and attack the root causes, namely the poverty of nations, communities and families.

3. **The immediate suppression of the most intolerable forms of child labour.** While reaffirming that the ultimate objective is the total and effective abolition of child labour, national enforcement capacities should in the first stage concentrate on eliminating the participation of children in work that is most detrimental to them, namely those activities conducted under hazardous, abusive or slave-like conditions.
4. **The need for a total prohibition of work by very young children.** It is essential to ensure that at the very least, national legislation prohibits the work of children under 12, in all sectors of activity and in all types of enterprise or employment.

5. **Special protection of girls.** Girls are particularly vulnerable to various forms of exploitation and abuse and therefore require special attention.

6. **Strengthening the role of the Inspectorate.** Major partners in combatting child labour are the agencies charged with enforcement of child labour legislation. Inspectors are uniquely placed to assess hazards to working children, to extend protection to them, and to exert social and legal pressures to eliminate hazardous and abusive forms of child labour. However, the labour inspectorate must find a balance between its supervisory function and its advisory role. In order to be more effective it should develop its educational function, diversify its means of action and concentrate on selected target groups that can help it give its activities a greater multiplier effect.

7. **Simplification of legal and administrative procedures.** The simplification of complaints and prosecution procedures must comprise, in many places, an essential part of any successful enforcement programme. Systems of registering child labour complaints, administrative and court procedures are sometimes so complicated that they are in some cases virtually inaccessible to children and their families, thus discouraging enforcement that begins with complaints from aggrieved parties. National legislation on child labour should be complemented by the establishment, at national and local levels, of an enforcement mechanism including government, workers, employers, and non-governmental organisations.

8. **Inform, sensitize, and mobilize public opinion.** Public awareness-raising is a vital tool to create an appropriate political and social climate against child labour, to promote the need for policy reforms, and to facilitate the implementation of policies and legislative mandates. Information on international and national standards on child labour should be made easily accessible to the public.
**Issues for discussion**

1. What should be the basic components of national legislation in order to effectively combat child labour?

2. How can children working in the urban informal sector, agriculture and domestic service be protected, taking into account that often they are not readily visible? How can legislation assist in this regard?

3. What type of enforcement mechanisms are needed in order to eradicate the worst forms of child labour? What steps should be taken at the national level to ensure that violations are brought before a court of law?

4. How can successful partnerships be developed between governments, employers' and workers' organizations, together with NGOs in order to effectively enforce child labour laws? What linkage should be established between the inspection service and community interest groups in order to extend effective oversight of children’s working conditions in those areas most difficult to reach? How can community and local groups play a role in facilitating enforcement?

5. How can the ratification of and application of ILO standards be promoted, and in particular the ratification of Convention No. 138 on Minimum Age? In what ways can active participation from all countries in the preparation of the new international standards be encouraged?