

## 1. Introduction

The International Labour Organization (ILO) estimates 168 million children are subjected to child labour worldwide, or 11% of the world's child population. Almost half of these children perform hazardous work, which is conducted in dangerous or unhealthy conditions and can result in death, injury or illness due to poor safety and health standards and unsuitable working arrangements.

Child labour is a violation of fundamental human rights, depriving children of education and healthcare, and perpetuating poverty. It can have negative effects at the personal level, family level and macroeconomic level, reducing growth and social development, and potentially depressing adult employment and wages.

In Mongolia, 10% of children aged 5 to 17 (over 56,000 children) perform child labour,<sup>1</sup> particularly in the agriculture sector, but also in the forms of horse racing, construction and mining. Hazardous work is especially common in construction and mining, with over half of 15 to 17 year olds in these sectors performing such work.<sup>2</sup> More children in rural areas than urban areas are engaged in child labour, as are more children from poorer households. Boys face a higher risk of child labour than girls, leading to gender inequality in education outcomes, but girls tend to bear a significantly higher burden in relation to household chores.<sup>3</sup> Data collection and monitoring pose significant problems, as employers are not required to keep a register of workers under 18.

As a member of the European Union's (EU) enhanced Generalised Scheme of Preferences (GSP+), Mongolia benefits from trade incentives dependent on compliance with international Conventions, including on child labour. Increasing efforts to eliminate child labour is therefore not only a human rights necessity, but also plays an important part in promoting both decent work and economic growth, in line with Sustainable Development Goal 8, a specific target of which is to prohibit and eliminate the worst forms of child labour, and by 2025 end all forms of child labour.

## 2. Identifying child labour

In the context of the ILO Conventions and Mongolian domestic law, "child" refers to all girls and boys under 18 years old. Determining whether work constitutes child labour depends on the child's age, the nature of the work, the hours of work and the conditions under which it is performed. The answer will also vary between different sectors and different countries.

Many children around the world are involved in economic activity, but not all forms of economic activity are classified as child labour. Children's involvement in work can be beneficial if it does not interfere with their schooling, health and personal development, helping them to develop skills and experience, and contributing to their families' welfare. Such work must be both non-hazardous and age-appropriate, in accordance with the **Minimum Age Convention, 1973 (No. 138)**, which was ratified by Mongolia in 2002.

Child labour, however, is a narrower category of work. It deprives children of their childhood, their potential and their dignity, and harms their physical and mental development. It is work that:

- is mentally, physically, socially or morally dangerous; and
- interferes with a child's education by preventing them from attending school or requiring them to leave school prematurely; or
- requires them to combine school attendance with excessively long and strenuous work.

## 3. Minimum age

Younger children are particularly vulnerable to the negative physical and mental effects of child labour. In general, the younger children enter the workforce, the more likely their education is to suffer and the less human capital they are likely to accumulate as a result.

To prevent children starting work too early, Convention No. 138 prescribes the minimum age for work as no less than that of completing compulsory education, and in any case not less than 15 (unless a ratifying country's economy and educational facilities are underdeveloped and it has conducted a tripartite consultation on the matter, in which case the minimum age may be set temporarily at 14). Light work may also be permitted for those aged between 13 and 15 if it is not likely to harm their health or development, and will not jeopardise their school attendance or involvement in vocational or training programmes. Hazardous work is only permitted for those aged 18 and over unless a tripartite consultation has taken place, the health, safety and morals of young workers are fully protected and they have received appropriate training, in which case the minimum age may be set at 16.

### Minimum age in Mongolia

Following amendments to Mongolia's **Labour Law** (which will come into force on 1 September 2016), children under 15 years old are not allowed to work, 15



year olds may enter into contracts for vocational training or apprenticeships with the permission of their parents/guardians and the state, and 16 year olds may enter into employment contracts without permission. The Labour Law further limits children's working hours according to their age and prohibits them from working overtime, or on public holidays or weekends. They are also not permitted to perform work included on the list of jobs prohibited for minors (see below). Employers who contravene these provisions are liable to a fine of 15,000 to 30,000 MNT, which is unlikely to have any significant deterrent effect. These amendments are in line with the 2015 observation of the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) under Convention No. 138, and constitute a positive measure.

#### 4. Worst forms of child labour

The "worst forms of child labour" are described in Article 3 of the **Worst Forms of Child Labour Convention, 1999 (No. 182)**, which Mongolia ratified in 2001. It conveys the urgent need to eliminate these particular forms of child labour as a priority, whilst retaining the elimination of all child labour as a long-term goal. The worst forms of child labour are:

- 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;
- the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- 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;
- 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.

#### Criminalisation of the worst forms of child labour

Mongolia's **Criminal Code (2015)** will come into force on 1 September 2016. Under Article 16, forcing children to engage in the worst forms of child labour is punishable by a fine, up to 1 year restricted movement (such as house arrest or prohibiting international travel) or up to 1 year imprisonment. Forcing children to beg, child prostitution, promoting child pornography and using children in the preparation, sale, distribution or storage of pornography are also offences under Article 16. Under Article 13, forced labour in general is punishable by a fine or up to 8 years' imprisonment.

#### 5. Hazardous work

Work that endangers children's health, safety or morals because of its nature or the dangerous or unhealthy conditions under which it is performed is known as "hazardous work". It can result in death, injury or illness (which might not become apparent until adulthood) due to poor safety and health standards and unsuitable working arrangements. Hazardous work can also affect children worse than adults due to their inexperience and lack of physical and mental development.

Article 4(1) of **Convention No. 182** permits the competent authorities of ratifying countries, after consultation with workers' and employers' organisations, to determine by national laws or regulations what jobs represent hazardous work. The **Worst Forms of Child Labour Recommendation, 1999 (No. 190)**, offers guidance for identifying such work, stating that particular attention should be paid to:

- work which exposes children to physical, psychological or sexual abuse;
- work 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; and
- work 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.

#### List of jobs prohibited for minors

In February 2016, the Minister for Labour approved an updated list of jobs prohibited for minors (order A/36). Applicable to both formal and informal sectors, it forbids under 18s from working in jobs and under conditions harmful to their lives, health, ethics, safety and development. It prohibits them from working with certain materials, such as dangerous chemicals and flammable materials, lifting loads above a certain weight (dependent on sex and age) and working in particular occupations. A recent addition to the list was horse racing and training between 1 November and 1 May, which is the most dangerous time of year due to adverse weather conditions (see below). However, during the summer Naadam festival, children as young as 7 years old are still able to participate in horse racing.

#### 6. Agriculture

Agriculture is one of Mongolia's largest economic sectors. In rural areas, 96% of rural working children are engaged in this sector.<sup>4</sup> The ILO conducted a baseline survey involving

270 children herding animals for households in Uvurkhangai, Khovd and Khuvsgul provinces in 2007. 64% of them were boys. Almost a third herded for households in towns other than their own, over a quarter herded for households in which they had no relatives and over half did not live with their parents.<sup>5</sup>

This has led to a number of problems. Most children herding for other families do not have formalised contracts, so their pay and working conditions are not recorded. Their parents enter into verbal agreements with host families, leaving them vulnerable to exploitation, physical and mental harm and breaches of their rights, including being beaten, sexually assaulted, overworked, deprived of food and drink, and working in extreme weather.

Herding can also negatively impact children's educational opportunities. According to a 2013 report by the ILO and the National Statistical Office (NSO), 22% of 15 to 17 year olds who were not studying attributed this to herding, which was the most common of all reasons given.<sup>6</sup>

## 7. Horse racing

Horse riding and racing are part of the traditional culture of Mongolia. In October 2010, UNESCO added the Naadam festival to the Representative List of the Intangible Cultural Heritage of Humanity. Taking place in July every year in towns and cities nationwide, it involves wrestling, archery and long distance horse racing with child jockeys.

Horse racing also takes place in spring, which according to the lunar calendar can be as early as late January or early February, when adverse weather conditions present additional safety concerns for children. Icy and slippery ground can lead to horses falling and children are more susceptible to frostbite, respiratory illnesses and eye infections. These races have also become less traditional and festive, and more commercial and profit-driven.

According to the Ministry of Labour in 2016, over 10,000 children are registered as child jockeys. Horse racing can be considered hazardous work: jockeys are often aged between 7 and 10, meaning their ability to appreciate and manage risks is not fully developed, and lack of race organisation leads to danger, such as equipment failures causing many children to fall from their horses while racing. From 2012 to 2014, 326 children received emergency medical treatment after suffering falls and 18 children died.<sup>7</sup> Horse racing also leads many children to drop out of school, and the commercial nature of races, including gambling, has led to child jockeys being hired out to live with horse owners away from home, leading to physical and mental health risks, mistreatment and abuse.

The law governing Naadam bans children under 7 from racing, and stipulates children must wear protective equipment and be insured. However, it does not cover other races. In February 2016, the Minister for Labour approved the second update to the list of jobs prohibited for minors since 1998, banning under 18s from racing during the most

dangerous time of year (1 November to 1 May). While welcoming this change, the ILO recalls horse racing is inherently dangerous to the safety and health of children, and urges the Government to take further steps to ensure no child under 18 is employed as a jockey. However, if such work is performed by those aged between 16 and 18, the Government should ensure their safety and health are protected, and that they receive adequate, specific instruction.

## 8. Construction

Construction work forms a significant part of the Mongolian labour market, and child labour in this sector is most prevalent in urban areas: half of child labourers in urban settings work in construction.<sup>8</sup>

In 2015, the ILO conducted a rapid assessment of child labour in the construction sector in Ulaanbaatar as part of the Global Action Programme on Child Labour Issues (GAP11).<sup>9</sup> Researchers examined child labour on construction sites, in factories manufacturing construction materials, and in markets and shops selling construction materials in 7 districts of the capital.

Most of the participants were boys, and most had begun work aged 15 to 18 (65%). Most did not have written contracts, as their parents made verbal agreements instead. In contravention of the Labour Law, average working hours were 60 or more per week. Some worked in jobs included on the list of jobs prohibited for minors. Almost half suffered injuries at work and many were not provided with safety equipment or proper advice. In 2013, there were three recorded fatalities of children in this sector.

16% did not attend school and 11% combined school with work, leaving them tired and with little time for leisure. Girls fared worse, as they had additional household responsibilities, such as cooking and cleaning. Most children came from low-income families, and many parents had little or no understanding of the negative consequences of hazardous child labour, focusing instead on their children's financial support.

## 9. Mining

The ILO and the National Human Rights Commission of Mongolia (NHRCM) published a joint study on the worst forms of child labour in Mongolia in 2008, including at informal mines in eight different provinces.<sup>10</sup>

85% of children interviewed were male, and lack of employment contracts was common. 63% worked 6 or more hours per day or from morning until night without specific hours, and 73% reported working every day. Over half worked underground or in polluted and noisy conditions. Safety equipment was used occasionally. Over half suffered accidents at work and over half reported their health deteriorated because of their work.



58% dropped out of school, and many others suffered from poor performance. Although over three quarters of parents felt it was inappropriate for children to be involved in mining, most felt there was no other option (a finding supported by a 2013 World Vision study<sup>11</sup>). Poverty and migration of families to near mine sites for employment were identified as causes of child labour in this sector.

## 10. Gender issues

Between the ages of 5 and 14, only 2% more boys work than girls, but this gap increases to 6% for children aged 15 to 17, which may reflect the influence of gender norms on the paths boys and girls take.<sup>12</sup> Out of all children performing hazardous work, most fall into the 15 to 17 age group (74%). As age increases, so does the proportion of boys performing hazardous work: 80% of these 15 to 17 year olds are male.<sup>13</sup>

Girls bear more responsibility for household chores: 11% of girls aged 5 to 14 perform chores for over 20 hours per week, which is the threshold at which they tend to be considered child labour.<sup>14</sup> Nonetheless, boys suffer disproportionately in terms of school dropout rates: statistics from 2004 show 61% of dropouts were boys, 83% of all dropouts coming from rural areas.<sup>15</sup>

## 11. Effects of child labour

Despite child labour contributing to a short-term increase in household income, it can perpetuate poverty in the long-term by reduced accumulation of human capital. Lower school enrolment and higher dropout rates are common among child workers, especially in rural areas in Mongolia, where the number of out-of-school children is five times that in urban areas (as noted by the CEACR in its 2015 direct request under Convention No. 182).<sup>16</sup> Although many combine school and work, working can adversely affect their education and reduces time available for home study and leisure. Moreover, most child labour outside the agriculture sector involves unskilled work, which does not develop skills or enhance children's future earnings. Lack of human capital not only affects individual households, but also social development on a national scale. Gender

inequality in education, to which child labour clearly contributes, also has this effect.<sup>17</sup>

## 12. Recommendations

Mongolia should strengthen its commitment to the prevention and elimination of child labour to ensure it upholds fundamental human rights and international labour standards, and to advance its economic interests, maintaining trade benefits with the EU and attracting further trade. The following actions are recommended:

- Amend the Labour Law to require all employers to keep a register of workers under the age of 18;
- Update the Law on Child Protection to reflect that children under 18 are not permitted to work, in accordance with amendments to the Labour Law;
- Raise awareness among children, parents and employers of child labour laws, the worst forms of child labour, hazardous work, minimum age restrictions and occupational safety and health issues;
- Raise awareness among children, parents and teachers, especially in rural areas, of the benefits of continued education for personal development and long-term financial prospects, and harmful effects of child labour;
- Strengthen efforts to provide access to free, basic and quality education to both working and out-of-school children, and increase school attendance rates, especially in rural areas;
- Target boys and their parents to challenge gender norms surrounding child labour, particularly herding;
- Raise awareness among children and parents of the harmfulness of excessive household work on personal development and education;
- Increase efforts to bring informal child workers into the formal economy under formal, written contracts;
- Strengthen labour inspection capacity to ensure compliance with international Conventions and national laws on child labour;
- Allocate sufficient funds and conduct regular research on child labour to ensure evidence-based approaches to policy formulation; and
- Increase the punishment for employers who contravene child labour laws to create a significant deterrent.

<sup>1</sup> Understanding Children's Work (UCW): *The twin challenges of child labour and educational marginalisation in the South-East and East Asia region: Preparing for a post 2015 world* (Rome, UCW, 2015), p. 6.

<sup>2</sup> Ibid., p. 36.

<sup>3</sup> Ibid., pp. 7–8.

<sup>4</sup> UCW: *The twin challenges of child labour and educational marginalisation in the South-East and East Asia region: An overview* (Rome, UCW, 2014), p. 16.

<sup>5</sup> ILO International Programme on the Elimination of Child Labour (IPEC) and National Human Rights Commission of Mongolia (NHRCM): *The worst forms of child labour in Mongolia – Study report* (Geneva, ILO, 2008), pp. 75–76.

<sup>6</sup> ILO and NSO: *Report of national child labour survey 2011–2012* (Geneva, ILO, 2013), p. 42.

<sup>7</sup> UNICEF and ILO: *The rights of child jockeys in spring horse racing*, (Ulaanbataar, UNICEF, 2016), p. 18.

<sup>8</sup> UCW: op. cit. (2014), p. 16.

<sup>9</sup> ILO (forthcoming), *Rapid assessment of child labour in the construction sector*

<sup>10</sup> IPEC and NHRCM (2008), op. cit., pp. 23–35.

<sup>11</sup> World Vision (2014), *Research report on the impacts of artisanal mining on children*

<sup>12</sup> UCW: op. cit. (2014), p. 6.

<sup>13</sup> ILO and NSO: op. cit. (2013), p. 93.

<sup>14</sup> UCW: op. cit. (2015), p. 8.

<sup>15</sup> [http://www.unicef.org/mongolia/children\\_2579.html](http://www.unicef.org/mongolia/children_2579.html)

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[http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:3255416](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3255416)

<sup>17</sup> Rossana Galli: *The economic impact of child labour* (Geneva, International Institute for Labour Studies, Decent Work Research Programme, DP/128/2001, 2001), p. 21.