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Child Labour Conference  
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# Protecting children in the world of work

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# **Protecting children in the world of work**

**Labour Education 1997/3  
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# Editorial

Certain chapters of history, in the not too distant future, will elicit many an abstruse interpretation of society's development matrix of the hour. In particular, the mutant enclaves of depressed social conditions around the globe will lend themselves to imaginative interpretations and searching commentaries on the knowing but conniving marasma in which the relative wealth of certain nations had been acquired.

If democratic power is the root of social change, political will in turn is the essence of change: taken together, both forces will only effectively serve to deviate the course of history if those who wield them refuse to paralyze the process of change by mere declarations of intent, if they heed the urgency of the moment and are ready to map their strategies within a given time-frame of months and years rather than decades or centuries. If child labour is deemed by all to be an evil practice in absolute terms, such sweeping consensus unfortunately finds no corollary in universal opinion as to the modes of action and the time schedule which would be required to neutralize the institutionalized violence with which the industry of child labour is conducted.

Give us time, often say those who apprehend time in terms of decades or centuries. If time were neutral, such demands could be understood; history could then be allowed its full lease of child exploitation; humanity could without a twinge of conscience rationalize such heinous abuse of society's most precious resources; but time is not neutral: time means the connivance of all in the prolonged suffering and distress of the most vulnerable social group; time means wasted lives and premature death for millions, societies more and more entrenched in a perverted process of unregulated production where material gain is the only criteria. Political accountability must therefore be articulated against the risks to be incurred by a timeless political machinery which would only declare its commitment to eradicate child labour in its society when its economy is ripe enough and no longer requires it to maintain a particular competitive edge. Until such a project matures, regrettably for the immediate victims, voices jointly proclaim their need for time. How much time? Years? Centuries?

In June 1996 the International Labour Conference adopted a resolution concerning the elimination of child labour. Since then an international concerted effort to halt the progression of child labour has been launched and has picked up momentum with the hosting of a number of international encounters: in Sweden the World Congress against Commercial Exploitation of Children in August 1996 and in the Netherlands an international conference in February 1996. This edition of *Labour Education* specially went to press on the eve of the Oslo Child Labour Conference with workers in mind.

The Oslo Conference will no doubt in its deliberations posit universal consensus with regard to the need to eliminate child labour. Its task will not be enviable, however, in terms of addressing the pleas of

those who, though they join their voices in clamouring that child labour should be stopped, suffer no scarcity of arguments as to why it is not possible here and now to end child labour.

The ILO, by the very nature of its standard-setting mandate, understands better than many how certain forms of action can be postponed over and over again, indefinitely, to the detriment of society: since 1919, a short century now, it has applied moral suasion via its supervisory mechanism to guarantee the observance of a certain number of minimum standards by its member States, many of whom appeal for time, repeatedly invoking reasons for not ratifying or applying an instrument. If time must be negotiated, let it be negotiated. Sovereign states must remain sovereign states in their ratification and application of international labour standards.

In addressing the most intolerable forms of child labour, however, the ILO is inspired by a single certitude: that such practices can in no way be defended and must end here and now. Therefore, in addition to standard-setting, the ILO resorts to other forms of leverage: in the case of child labour, the organization is deeply engaged in a different mode of action, mobilizing and joining forces with every seat of authority and decision-making to combat the pestilence of child slavery and exploitation. The ILO understands that time has run out, that action must now be swift and sure.

The ILO Bureau for Workers' Activities, in producing this edition devoted to the issue of child labour on the eve of the Oslo Conference, pronounces its pledge to join forces with all partners openly or silently engaged in bringing a prompt end to child exploitation in its worst forms and harnessing all assets to arrest the process and rehabilitate the children who have fallen victims.

I congratulate all who have pooled their efforts to make the Oslo Conference a reality. The hosting of this Conference carries full promise of a significant breakthrough in charting courses of action and adopting concrete measures as formulated in the ILO 1996 resolution on the elimination of child labour. The ILO Bureau for Workers' Activities hopes that the following columns will, however modestly, contribute to a fruitful exchange of ideas among workers and their counterparts attending the Conference, and at the same time inspire strength of will to achieve lasting results on the part of those who hold the reins of command. I extend my most cordial greetings to all participants attending the Conference and wish them every success. We all look forward to the proceedings.

*Giuseppe Querenghi*

*Director  
ILO Bureau for Workers' Activities*

# Foreword

Work at an early age is a serious problem, not only because child labour is often performed under exploitative and hazardous conditions, but because it interferes with a child's emotional, educational and social development.

Conditions surrounding child labour frequently constitute serious violations of the International Convention on the Rights of the Child. Norway sees child labour as a human rights issue as well as a development issue. Given the extent of violations and the seriousness of the problem, the Norwegian government has made child labour a priority issue for its development cooperation in the years to come.

Since the beginning of the 1990s, the problem of child labour has received increased attention. The ILO, and at a later stage UNICEF, have been major actors in placing this problem high on the political agenda. Norway wants to join forces with these organizations in their fight against the exploitation of children.

Child labour is a complex issue to which there is no single answer. However, there is a significant agreement about the fact that child labour cannot be seen in isolation from education and poverty. To extend and improve schooling for the poor is one of the most forceful long-term strategies for eradicating child labour, and one to which the Norwegian government gives its full support.

It is also acknowledged that although the struggle against child labour cannot be won only through legislative action, it can certainly not be won without it. The role of legal instruments is to complement long-term structural and anti-poverty-oriented policies to protect children and adolescents from exploitation.

While the most comprehensive international instrument concerning child labour is the ILO Minimum Age Convention, the most comprehensive international instrument concerning children and childhood in general is the UN Convention on the Rights of the Child. The ratification of these instruments and their implementation through national legislation and policies are crucial steps towards the protection of children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

To combat child labour, there is a need for action both at national and international levels.

To improve cooperation among the different actors at different levels fighting against child labour, Norway is convening an international conference in October this year. The objective of the Oslo conference is to identify strategies at national, regional and international levels for the elimination of child labour, with a special focus on the role of development cooperation.

Prevention, removal and rehabilitation of child labour requires concerted action. We must not lose sight of the complementarity in roles to

play and actions to be taken between different actors involved. The Norwegian government will continue to focus on **preventive measures** to combat child labour. Long-term economic and social policies should aim towards the building of societies in which child work is neither needed nor accepted. Simultaneously, it is necessary to develop **parallel policies** of special protection for working children. This must include immediate measures to eradicate hazardous child work. Further, immediate action must be taken to eradicate work by children at school age, including all activities that may interfere with their normal development and formal education. My hope is that we, together, can contribute to improving the possibilities for survival, development, protection and participation of our children.

*Kari Nordheim-Larsen*  
*Minister of Development Cooperation*  
*Norway*

# Revisiting the child labour issue in terms of ILO standard-setting

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## Child labour and the mandate of the ILO

The original Constitution of the International Labour Organization had its source in Part XIII of the Treaty of Versailles, concluded in 1919. Its section II on General Principles (Article 427) contained article 41 of the original Constitution (amended in 1946) which revolves around the principle that labour is not a commodity. It directed that “a special and urgent importance” be accorded to a number of methods and principles. One of these was:

*The abolition of child labour and the imposition of such limitations on the labour of young persons as shall permit the continuation of their education and assure their proper physical development.*

This provision, never formally abrogated, defines the mandate of the ILO in a way which is still fully adequate seventy-eight years after its adoption. In addition, the first set of international labour standards adopted by the ILO in 1919 included Convention No. 5 on Minimum Age (Industry) as well as Convention No. 6 on Night Work of Young Persons (Industry). Minimum age Conventions for seafarers and agriculture followed in the years 1920-21.

To date the ILO has adopted 11 Conventions on minimum age. The most comprehensive of these is the Minimum Age Convention 1973 (No. 138). It sets the international generally applicable benchmarks and is recognized to be the “core Convention” relating to child labour. It is one of the seven Conventions targeted by the ILO’s Director-General in the campaign for ratifications following the World Summit for Social Development held in Copenhagen in March 1995. It is also referred to in the preamble of the United Nations Convention on the Rights of the Child. As of January 1997, Convention No. 138 has been ratified by 50 countries. The campaign for the ratification of core Conventions has shown that several new ratifications can be expected in the near future.

A consensus on the need for a new thrust for concerted action to fight child labour has been growing since the beginning of the 1990s. Such a development may be directly traced to the process of globalization, which in turn has led to a marked shift in emphasis on labour standards within the context of a new competitive environment. Such an environment has stimulated awareness on the part of consumers as to the origins and manner of production of goods which they purchase. Although only about 5 per cent of the products made by children arrive on the international market, it has been enough to provoke a strong moral response. The expansion of sex tourism has only served to arouse further public indignation against the commercial sexual exploitation of children. Eventually, the establishment and expansion of the ILO’s International Programme on the Elimination of Child Labour (IPEC) has also had a decisive mobilizing effect.

By the middle of the decade it had become clear that there was a new impetus for action by the ILO on the issue of child labour. With remarkable unanimity, the Governing Body decided to place the topic as a standard-setting item on the 1998 and 1999 agendas of the International Labour Conference in the years 1998-99. It is generally assumed that such debates will lead to a new Convention, possibly supplemented by a Recommendation. Prior to the 1996 Conference, the Employers’ group of the ILO also adopted a position calling for action against child labour. Draft resolutions to this effect had already been submitted by Workers’ delegates earlier in the decade.

## Focus on the intolerable: the Conference discussion in 1996

In June 1996, an informal ministerial meeting held during the International Labour Conference selected child labour as its agenda item. The growing consensus on the issue also led to a unanimously adopted Conference resolution on child labour, when even two years earlier

there had still been no agreement to adopt a Conference position on the issue. The resolution was the result of, firstly, the submission of parallel draft resolutions on the topic by the Employers' and Workers' delegates and some governments of the industrialized market economy countries and, secondly, negotiations between the sponsors of these drafts and delegates from a number of important Asian countries which are trying to deal with the issue of child labour domestically and with the help of IPEC.

The focus of the resolution is stated in the preamble which underlines:

*...the shared responsibility of governments, employers, workers and their organizations and society at large to work for the progressive elimination of child labour. In this context, stressing the need to immediately proceed with the abolition of its most intolerable aspects, namely the employment of children in slave-like and bonded conditions and in dangerous and hazardous work, the exploitation of very young children, and the commercial sexual exploitation of children...*

The resolution thus covers two elements: the progressive elimination of all child labour; and the immediate abolition of its most intolerable aspects.

Since the adoption of the resolution, there has been discussion on the concept of *intolerable* forms of child labour. In particular, it has been asked whether such a concept means that there could be *tolerable* child labour? The same question would have arisen if the word "*intolerable*" had been replaced by another, such as "*exploitative*". The concern is that if certain areas are singled out for special action, other forms within the same category might then be considered as acceptable or tolerable.

This scruple should, however, be examined within the framework of proposals for time-bound action against child labour and the way in which programmes for its elimination function within the framework of IPEC. To give one practical and timely example, an agreement was signed in February 1997 between the ILO and manufacturers of footballs in Sialkot, Pakistan, to phase out completely the use of child labour within a period of one and a half years. The agreement recognizes that in order to do so, alternatives have to be found for the children who are removed from the industry. This is addressed by a social protection programme which includes measures for education and vocational training. The understanding is that the withdrawal of children from the

industry calls for a certain transitory phase and that it would be counter-productive to do so without efforts to provide for the necessary alternative facilities.

Is an activity such as stitching footballs thus a "most intolerable" form of child labour or not? The very existence of a programme for the removal of children from employment and providing them with alternatives over a period of time implies that, at least temporarily, their work is to be tolerated. Such a position obeys the principle that if an alternative is not in place, the children may disappear from sight and even suffer a worse plight. One might argue that although stitching footballs is not in itself particularly dangerous or hazardous, children should not do such work. Consequently, a transition period is conceivable. Transition periods should be as short as possible, and also realistic, but if the children belong to the category of the "very young", for instance under 12 years of age which is the lowest of the limits set by the Minimum Age Convention, then arguably any kind of employment should be considered intolerable and terminated. It should be clear that it is, for example, most intolerable to employ a five-year old child in a match factory which abounds with hazards, and in such a case no transition periods are justified.

It should go without saying that where transition periods are appropriate, they can under no circumstances be extended indefinitely. This is an area where standards and domestic and international programmes (such as the IPEC) meet. The notion of a time-bound programme not only means that a clear framework of assistance is agreed upon for compliance with international labour standards, but that the relevant programmes require monitoring and transparency, so that their effectiveness can be evaluated, adjustments made, and additional measures taken.

### **Links between the new and existing Conventions**

The purpose of shaping and adopting a new Convention is not to revise the Minimum Age Convention but to complement it. Some concern has been expressed that the new instrument could diminish the force of Convention No. 138 or change its focus. However, it should be perfectly possible to maintain the validity of regulations on ages for entry into employment in one Convention and specify in another what should be considered a violation

of the rights of the child and consequently abolished immediately.

There is a remarkable continuity in the ILO standards on minimum age: in 1919, Convention No. 5 fixing the minimum age for admission of children to industrial employment set the age at 14 years. At the time of adoption, 14 was the general age for completing compulsory education. In 1921, Convention No. 10 concerning the age for admission of children to employment in agriculture set the same age level but allowed work outside the hours of school attendance provided that attendance at school was not prejudiced. Conventions Nos. 5 and 10 excluded supervised work by children at technical schools, thus acknowledging a link between education and work.

In 1932, Convention No. 33 concerning the Age for Admission of Children to Non-Industrial Employment set the threshold again at 14 years or higher if their attendance at primary school is still required by national laws or regulations. The same Convention also permits children over 12 to be engaged in light work outside school hours while requiring a higher age to be set for dangerous work. In 1937, two Conventions revised the earlier standards: Convention No. 59 fixing the minimum age for admission of children to industrial employment and No. 60 concerning the age for admission of children to non-industrial employment both raised the limit to 15 years. The latter Convention raised the limit for light work to 13 years.

Convention No. 138 referred to all the earlier ten Conventions on minimum age and stated that

*...the time has come to establish a general instrument on the subject, which would gradually replace the existing ones applicable to limited economic sectors, with a view to achieving the total abolition of child labour...*

Although the general age limit maintained the standard of 15 years, it allows countries whose economy and educational facilities are insufficiently developed to set a limit of 14 years, following consultations with employers' and workers' organizations. The limit for work likely to jeopardize the health, safety and morals of young persons was set at 18 years. Such norms would be determined by national laws and regulations after consultations with employers' and workers' organizations. If the health, safety and morals of young persons are fully protected and the necessary training has been given, this limit could

be lowered to 16 years. The limit for light work is 13 years, or 12 years in countries with less developed economies and educational systems.

It is necessary to recall these provisions for a number of reasons. Firstly, they show a remarkable consistency in the ILO's approach over 78 years. The target is setting a realistic minimum age in relation to the normal age of completing compulsory education. Secondly, they are a reminder that the aim of setting minimum age standards is the elimination of child labour. This conforms fully to the aims of the Constitution of the ILO as adopted in 1919. Thirdly, these provisions are evidence that the standards allow for flexibility. In addition to what has been singled out above, there are other exceptions, as in the case of work linked to education and artistic performances. Consequently, a Convention targeting the most intolerable forms of child labour is not liable to come into conflict with the Minimum Age Convention (No. 138). As far as age brackets go, the new Convention could quite possibly aim at those falling under its thresholds as well as work which, according to the Minimum Age Convention, is likely to jeopardize the health, safety and morals of young persons: in other words, work which can clearly be deemed to be "most intolerable".

There seems to be some confusion in current public discussion on what is child labour in terms of the Minimum Age Convention and what is not. The age brackets specified in Convention No. 138 start with a heavily qualified 12 years, for light work in developing countries, with no impairment of educational opportunities. It may well be that a degree of what in the public debate is referred to as child labour is not, in fact, in contradiction with the existing minimum age standards. There is a danger of mixing up child labour which is to be eliminated (immediately or in the framework of a time-bound programme) with the employment of young persons, which naturally should be subject to proper protection as accorded by labour standards.

This may lead to a situation where arguments which rightfully belong to a discussion on protection of workers is transposed into a very different debate – one with a stark dimension of human rights of the child. As discussions on child labour are also taking place in the United Nations and other international multilateral institutions, agencies and programmes, all concerned will be well served by clarifications on the relevant standards for

which there will be ample opportunity once the process for shaping and adopting a new ILO instrument is engaged.

### **Child labour as a core issue**

With 50 ratifications, as of 1 January 1997, the Minimum Age Convention is clearly less ratified than the other "core" Conventions on freedom of association, forced labour and non-discrimination. The constituents have not accorded it quite the same status as the other Conventions. Although it allows for exceptions, governments of both industrialized and developing countries have not proposed ratification because they feel that it is not suitable for the agricultural sector or could hamper some work by older schoolchildren at a time when work experience and earning some money of their own would do them no harm. It can be argued that the exceptions and flexibility allowed by the Convention would easily accommodate such cases.

The World Summit for Social Development held in Copenhagen in early March 1995 included among its commitments a reference to labour standards. Paragraph 29(i) (Commitment 3) of the Copenhagen Declaration on Social Development (1995) pledges to pursue the goal of ensuring quality jobs and safeguarding the basic rights and interests of workers:

*...and to this end freely promote respect for relevant International Labour Organization Conventions, including those pertaining to prohibition of forced and child labour, the freedom of association, the right to organize and bargain collectively and the principle of non-discrimination;...*

As a measure of follow-up to this Summit, the Director-General of the ILO has written to countries which have not ratified the Conventions on the above-mentioned subjects, urging action. The Conventions in question are Nos. 87 and 98 on freedom of association and collective bargaining, Nos. 29 and 105 on forced labour, Nos. 100 and 111 on equality of treatment and non-discrimination, and No. 138 on minimum age, now known as ILO "core" Conventions.

The emerging consensus on the core labour standards has, since Copenhagen, been confirmed both in discussions in the Governing Body of the ILO and by an authoritative study of the OECD as well as by discussions in the World Trade Organization on the proposal for a link between trade and labour standards.

The importance of child labour as a core issue has been recognized on several occasions.

A broad study by the OECD on trade and labour standards, finalized in 1996, included child labour among the other core standards: freedom of association, non-discrimination and the abolition of forced labour. The same study also suggested the drafting of a new Convention on child labour, no doubt reflecting some of the earlier hesitations concerning the Minimum Age Convention. Attention should be drawn to the omission in the OECD study of any reference to another core Convention, No. 100, concerning Equal Remuneration for Women and Men Workers for Work of Equal Value, 1951.

An important signal of support for ILO action from an authoritative political level came from the Heads of State and governments of the leading eight industrialized democracies, meeting in Denver, USA, at the end of June 1997. Their communiqué on human rights may be cited as follows:

*The protection of the most underrepresented or vulnerable is critical to broaden participation in the democratic process and prevent societal conflict. We will work to ensure adoption and ratification of international instruments designed to provide protection to these groups, in particular the speedy adoption of an International Labour Organization Convention on the eradication of intolerable forms of child labour.*

### **Core Conventions and other standards**

With the strong emphasis on the core principles and conventions, it is sometimes asked – quite legitimately – whether this, in effect, means that those which are not deemed to be core standards would be placed in a secondary category? This question is important, among other things, in the light of the preparations underway for a new Convention on child labour and its future relationship with the Minimum Age Convention.

The answer to this question must clearly be in the negative. There should be no problem whatsoever to recognize the fundamental, constitutional nature of some rights. They are the *sine qua non* of a good functioning of the global labour market, establishing a number of principles not tied to levels of economic development. Other standards provide firm guidance on how labour markets should be developed and adjusted. While one cannot say that they would be of lesser importance, their effectiveness is in turn dependent on the observance of the fundamental human rights of workers.

It follows that the need for more meaningful supervision of these fundamental rights becomes more insistent.

The current discussion in the ILO focuses on the extent to which the core Conventions embody the principle that countries should have obligations even if they have not ratified them. In practice, the question is to determine which rights are so fundamental that they amount to constitutional obligations on the part of all Members of the ILO.<sup>1</sup> This issue was singled out in the Report of the Director-General to the 85th Session of the International Labour Conference, in June 1997. The same Report addressed standard-setting in the context of globalization. The Report notes that:

*The supervisory machinery for the application of Conventions and principles on freedom of association provides an interesting reference and experience in this area. Under this procedure, governments or workers' and employers' organizations may submit complaints concerning violations of trade union rights by States, irrespective of whether or not they have ratified the Conventions on freedom of association.*

*A declaration or any other text enshrining principles adopted by the Conference might help to define the universally acknowledged content of the fundamental rights which should be respected by all Members of the Organization, whether or not they have ratified the corresponding Conventions, and to establish a mechanism to guarantee their promotion.*

Progress in this field would bring child labour under intensified scrutiny in the supervisory mechanism of the ILO. This would represent a significant contribution to the effort to establish in practice the global labour standards framework. It would also respond to the outcome of the WTO Ministerial Meeting held in Singapore in December 1996, which stressed that the ILO was the competent body to set and deal with international labour standards.

## **ILO action and the role of the social partners**

There are three different levels at which the ILO is focusing on child labour: standard setting, regular work of the Office, and the donor-funded IPEC programme. The programme of work for the biennium 1998-99 stresses the objective of strengthening the capacity of the ILO's tripartite constituents and other relevant groups to take action to eliminate child labour. Responding to requests by the International Labour Conference (as formulated in the

above-mentioned resolution), the Office will prepare regular reports on global trends regarding child labour. Awareness-raising activities will be undertaken within the framework of seminars and workshops. Material will be prepared on such emerging issues as labelling and corporate codes of conduct, for use by workers' and employers' organizations, businesses and consumer groups.

In the biennium 1998-99 a special Action Programme will be launched against extreme forms of child labour. This measure is a logical follow up to the other forms of ILO action indicated earlier in this article. A number of important conferences held at the initiative of Governments have contributed to this focus. Among them featured a World Congress on the Commercial Sexual Exploitation of Children, held in Stockholm in August 1996; a Conference in Amsterdam in February 1997; and a Conference to be organized in Oslo in October 1997. The last two have included independent participation of employers' and workers' representatives.

In addition to increasing general awareness on how the most intolerable forms of child labour can be eliminated immediately, the Action Programme provides for further conceptual and empirical work. Focus would be on the definition of hazards related to work; the identification of occupations and activities which are especially dangerous and hazardous; the identification of particularly vulnerable groups; the exploration of appropriate changes in legislation; and designing and implementing rehabilitation programmes to support enforcement.

Within the perspective as outlined, the immediate challenge is to find ways of taking immediate action to eliminate the most intolerable forms of child labour. In this instance no gradual phasing-out period is acceptable. Even if transition periods were to be of moderate length, thereby accepting that very young children or those in hazardous and dangerous occupations could work, serious harm would be inflicted on the health, morals and educational opportunities of the children concerned.

As part of its regular work, the Office will produce informative materials, including guidelines and a handbook for the use of Ministries of Labour, Education, Social Welfare, and other Ministries and Government agencies. One important element to be stressed is cooperation among these various national bodies. It must be recognized that the problems of child labour cannot be handled by

Labour and Social Affairs Ministries (the traditional ILO constituents) alone, but neither can they successfully be handled without their full participation.

The third component of ILO action, the IPEC programme, now covers more than 20 countries. The level of contributions in the 1996-97 biennium was around US\$24 million. This donor-funded programme represents the daily involvement of the ILO on the ground, together with national employers' and workers' organizations and national and local NGOs. Some 70 per cent of a total of some 600 projects which the IPEC has been implementing in 1997 concentrate on the elimination of the most intolerable forms of child labour.

The integration of a workers' and an employers' component within the IPEC programme is a recent development. The above-mentioned new emphasis of the employers' group since May 1996 has led to a distinct

employer-oriented component. Employer organizations are to receive assistance from the ILO for designing their own action programmes against child labour. A handbook for workers' organizations has recently been published, and the worker-oriented element in ILO/IPEC activities has focused, among other things, on work that can be done with the International Trade Secretariats. In the final analysis, child labour cannot be effectively eliminated if the employers and the organizations of workers are not in the forefront. Conversely, their involvement is one of the best guarantees of success.

#### **Note**

<sup>1</sup> See *The ILO, standard setting and globalization*, Executive Summary, Report of the Director-General, International Labour Conference, 85th Session, 1997, p. 3.

# Why new international instruments on child labour ?

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*In the following article, the author engages in an intricate analysis of the rationale underlying the ILO's pursuit of shaping and adopting an international instrument on child labour, with pertinent reference to instruments already in place. He unveils some of society's myths which serve to give legitimacy to the exploitation of children. Above all, his sincere logic sheds light on the path to be chosen which will lead, "at the beginning of the twentieth-first century, to the elimination of child labour and exploitation within a context of lasting development."*

Never has any standard, by its sole virtue, made it possible for a child to be withdrawn from work. This argument, which has been used over and over again by the champions of laissez-faire to justify the refusal to adopt new standards, is both false and partial. Without the will to apply them, without any application machinery at the national level, international standards have nought but a moral force. If standards are not in themselves enough to ensure that their objectives will be attained, they are nevertheless indispensable for two reasons. First, they express the will of the international community to act together to resolve a situation which is both a challenge to the exercise of the rights of the child and an obstacle to development, perpetuating the vicious circle of ignorance, exploitation and poverty. Second, they make it possible to distinguish at the global level, with the participation of all member States, employers and workers, between what is permissible and what is not, between what is lawful and what is not.

The adoption of standards is one of the ILO's means of action for achieving the objectives of social justice entrusted to it by its constituents. It is the responsibility of the latter to put into practice the standards which they have adopted and perhaps ratified.

The discussions held at the meeting of the Committee on Employment and Social Policy of the Governing Body of the ILO (November 1995), those which led to the decision to place on the agenda of the Conference an item on child labour with a view to the adoption of new standards on child labour (March 1996), those of the Informal Tripartite Meeting at the

Ministerial Level (June 1996) as well as those which led to the adoption of the resolution concerning child labour by the International Labour Conference in June 1996 have all revealed certain deficiencies in those instruments which are supposed to protect children through the elimination of child labour as well as a will to take action on the part of the constituents. The *raison d'être* of the future instruments is to respond to this will and redress these deficiencies.

It is difficult at this point to make any predictions about the exact content of the future instruments. The procedure established by the ILO's Constitution began with the dispatch in

The protection of children is one of the objectives assigned to the ILO by the Preamble of its Constitution. Whereas work performed by children from the age of 7-8 was common practice in the pre-industrial societies, it became more visible during the Industrial Revolution because of its concentration and above all thanks to national surveys carried out in the industrial sectors. The ILO participated in the movement for the elimination of child labour and, as early as 1919, adopted Conventions and Recommendations which fixed a minimum age of admission to employment of 14 years in factories, agriculture, commerce and on board ship.

The link between the prohibition of child labour and schooling was established in 1921 by the Minimum Age (Agriculture) Convention (No. 10).

November 1996 of the report<sup>1</sup> and questionnaire seeking the views of governments, employers' and workers' organizations on the form and content of the future instruments. The Amsterdam Conference on the most intolerable forms of child labour (February 1997) asked governments to undertake the broadest possible consultations in preparing their replies to the questionnaire, in particular with non-governmental organizations. The relevance of the future instruments will depend to a large extent on the quality – and number – of comments reaching the Office before 30 June 1997. The observations will be used to prepare the proposed conclusions which will be discussed at the Conference in June 1998.

It is possible, however, on the basis of the above-mentioned discussions, to gain an initial idea of what the future instruments might look like. They would comprise a short and precise Convention to supplement Convention No. 138, with a view to the immediate elimination of the most intolerable forms of child labour. A Recommendation would indicate certain practical methods of application and guidelines. By ratifying the Convention, States would undertake to put an end immediately to all forms of child labour in its different guises such as all forms of slavery or practices similar to slavery; the sale and trafficking of children; forced or compulsory labour, including debt bondage and serfdom; the use of children for prostitution; the production of pornographic material or performances; the production or trafficking in drugs or other illegal activities; the use of children in any type of work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize their health, safety or morals. The Convention would also provide for the establishment and strict enforcement of adequate sanctions as well as preventive and remedial measures to ensure that children are not re-recruited or do not return to such activities. Finally, it would encourage States to assist one another by means of international assistance to combat the intolerable forms of the scourge.

However, the question arises of the "added value" of these texts, to use an expression appearing in the Director-General's Report to the 1997 Conference.<sup>2</sup> In trying to answer this question, we must examine, on the one hand, what is really being sought by these future instruments, their purpose as it were, and, on the other, the measures which they seek to promote.

## What work? Which children?

The first issue which arises is determining the scope of child labour to be covered by the international instruments. At this juncture, one statement of fact and two propositions can be made.

First, the statement of fact: there exists no definition of child labour (just as there is no definition of adult labour). This lack of definition must not, however, stand in the way of determining what is being pursued by the international instruments – and national legislation – and its elimination. It is within this perspective that the following two propositions might be borne out.

The first: **all children work**. We must put an end to the attitude which consists of hiding behind the fact that it is "traditional" for children (from what age?) to go out and sell newspapers, deliver milk, carry water, help their mothers in the fields, look after their younger brother and sisters, help with housework, and using that fact as a means of rejecting the objective of the elimination of child labour and, in practice, giving legitimacy to the exploitation of children. Attendance at school is a form of work which, although it is not immediately productive, constitutes both a long-term investment and a process of accumulation. In the same way, participation by a child in household activities and family work must be considered as work: this participation, like that of women in the home, produces a result which is economically quantifiable and contributes to family income. The socialization of children, in whatever society, involves their increasing participation, in accordance with their age, in the work of the family within which they live. It is sufficient to recall in this respect that this aspect was fully taken into account when compulsory schooling was introduced in the industrialized countries at the end of the nineteenth century. School holidays allowed children to participate in family work in societies in which more than half of the population was engaged in agricultural work. Thus the long school holidays in summer began with haymaking, were followed by the rains and ended with the harvest.

Children who work are not only victims: they are also actors who are part of a family, a neighbourhood or a society and who act in the light of the way their future is presented to them. At the legal level, which concerns us here, the question is to know what type of work is the target of the international instruments

with a view to its elimination and for what reasons.

The concept of *normal family obligations* would perhaps allow a clearer distinction to be made between the work prohibited by international instruments and national standards and a series of activities the nature and scope of which vary according to country, cultures, social classes and occupational categories. The obligation to attend school, the corollary of the right to education, is without any doubt a *normal family obligation which is incumbent on both parents and children*. Normal family obligations would also include the participation of children in everyday domestic activities or family work. These *normal family obligations* are, in principle, excluded from the scope of international instruments, provided that they do not give rise to abuses, the most serious of which are debt bondage or the trafficking of children by family members. This is established by the provisions of article 32 of the United Nations Convention on the Rights of the Child, which states that a child must be protected from economic exploitation, without stating who the author of such exploitation might be. Thus it is not possible to totally exclude what happens within the family context from the scope of instruments on child labour, as for example in Convention No. 138 (see article by Y. Noguchi on this subject in this same issue, p. 16).

This proposition that all children work also requires distinguishing between the different kinds of "work" carried out by children. In order to be useful, it must be complemented by a second proposition: **not all the work carried out by children is authorized by international (and in general national) provisions.**

*A priori*, any work which is not expressly prohibited (whether on the criterion of age or because of its hazardous nature) is authorized. However, the criteria must be based on clearly established principles.

**Age** is the primary criterion used by national legislation, and by international standards, to distinguish what is permitted from what is not. Here again, the argument which refers to "children" as if they formed a homogeneous category must be challenged, since childhood is but a transitory stage characterized by multiple forms of dependency (emotional, economic, legal, etc.) by the child on the family group and society over a relatively long period.

"Children" are, among other things, characterized by their age. International labour standards have gradually abandoned the fix-

ing of a single minimum age which would be applied without account being taken of the economic, social and administrative conditions of different countries. While the "standard" minimum age for admission to employment or work is fixed at 15 years, it may be adjusted downwards (14 years) or upwards (16 years) under article 2 of Convention No. 138. Furthermore, it may also be adjusted in the light of the type of work or the arduous nature of the work, by fixing an age of 12 or 13 years for "light work", as is examined below. It is only in the case of dangerous work that there is a fixed minimum age of 18 years; authorization for persons over 16 to perform work which might be classified as dangerous must be subject to strict conditions designed to reduce, if not totally eliminate, the dangerous or harmful nature of such work.

The future instruments have little new to contribute over earlier instruments as regards the fixing of a criterion of age, except to recall that the elimination of work by young persons under the age of 12 years must be a priority. This is reflected in point 12 (e) of the questionnaire on the Recommendation which refers to the promotion and support of programmes which "give special attention to children under age 12".

While the future instruments should not fix or recall one or more minimum ages for admission to employment or work, they must, however, stipulate to which "children" they apply. The solution adopted in the questionnaire brings the future instruments into conformity with the United Nations Convention on the Rights of the Child, by stating that they shall apply to all children under the age of 18.

### **Definition of the child in international instruments**

International labour Conventions do not define the child but make a distinction between "children", who are persons under the age of 15 years who, in general, are not authorized to work, and "adolescents" or "young workers", who are persons under the age of 18 years who are authorized to work in certain conditions.

The United Nations Convention on the Rights of the Child defines a child as "every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier".

This is not a new fixing of a minimum age but a definition, based on the criterion of age, of the scope of these future instruments.

Second criterion: **the conditions in which the employment or work is exercised.** The instruments adopted to date either authorize certain types of work or prohibit other types of work by combining the criterion of age with that of the arduous, dangerous or harmful nature of the work.

At one end of the spectrum of "normal" work, which may be carried out by any person aged 15 years (or 14 years), the instruments make provision for "light" work and, at the opposite end, employment or work which might jeopardize the health, safety or morals of young persons. The former may be authorized for children from the age of 13 years (12 years in some cases), while the latter is prohibited to adolescents under the age of 18 years.

The determination of work which, by its nature or the conditions in which it is performed, is likely to jeopardize the health, safety or morals of children is impossible at the international level. The solution adopted in the questionnaire would be for governments to determine which jobs or work are considered to be dangerous and which should be prohibited for children after consultation with the employers and workers concerned. It is not necessary to draw up a formal list. Specific prohibitions could be sufficient provided that they are established in good faith. Finally, broad publicity campaigns should allow employers, children and the public to be informed of the fact that these jobs and types of work are not authorized for persons under the age of 18 years. These provisions should be similar to those of Con-

### "Light" work

The first characteristic of this work is ... its "lightness". It has not been the subject of a definition but some of its characteristics have been specified in international instruments. It is work which (i) must not jeopardize the health or normal development of the child; (ii) must not be likely to interfere with school attendance, participation in vocational guidance or training programmes or the aptitude to benefit from the education received.

Furthermore, this light work should not exceed two hours a day, whether on class days or during holidays, and school and light work together must not exceed seven hours a day.

vention No. 138 in order to prevent any possible contradictions between the old and future instruments. The difference is that the future standards will apply to all sectors of activity, without any possibility whatsoever of limiting their scope to eight sectors or branches of activity, as in Article 5 of Convention No. 138. In this respect, the flexibility of the solutions adopted must be combined with rigour in the protection of the development and health of children and adolescents. The poor physical development of a child will entail a social cost.

### How can action be taken ?

The future instruments, by focusing on the most intolerable forms of child labour, establish a priority for taking action by govern-

### The exclusions authorized by Convention No. 138

The first possible exclusion concerns "limited categories of employment or work in respect of which special and substantial problems of application arise" (Article 4(I)). It would apply, for example, to employment or work in **family enterprises, work in private domestic service, home work** or any other work performed outside the control of an employer. However, dangerous work, in the sense used in Article 3 of the Convention, may not be excluded.

The second limitation is temporary and permitted only in developing countries. It allows such countries, "initially", to exclude the branches of activity or types of enterprises which are not included in the following list: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; plantations and other agricultural undertakings mainly producing for commercial purposes, but "excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers" (Article 5).

These two types of exclusion are subject to prior consultation with employers' and workers' organizations. They are also subject to regular assessment measures to enable the gradual application of the Convention to the work and employment excluded.

## Article 32 of the Convention on the Rights of the Child

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- (a) provide for a minimum age or minimum ages for admission to employment;
- (b) provide for appropriate regulation of the hours and conditions of employment;
- (c) provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

ments which ratify them. Convention No. 138 fixes a general objective: the effective abolition of child labour and the gradual raising of the minimum age for admission to employment. Slightly less progressive than Convention No. 138, in so far as it does not refer to the abolition of child labour, the United Nations Convention on the Rights of the Child stipulates that States Parties shall ensure the rights of children to be protected from economic exploitation and from performing any work that is likely to be hazardous or harmful to their development. Thus States must take "legislative, administrative, social and educational measures" to achieve these objectives.

The relatively restricted scope of the future instruments – the most intolerable forms of child labour – suggests that a greater degree of precision will be possible in determining the measures to be taken. The current text of the proposed Convention, as it appears from the questionnaire, establishes four kinds of measures to be taken. Two of these categories of measures are new in the context of the existing instruments: they concern preventive and follow-up measures as well as the measures of mutual assistance which member States would be encouraged to provide. The two others are more classic but just as important: penalties including penal sanctions and the designation of the competent authorities and persons

responsible for applying and ensuring respect of the provisions of the Convention.

It is not possible within the framework of an international labour Convention to define the precise content of these measures, but it is important that the obligations concerning means be clearly drafted. Thus the preventive and follow-up measures should take into account both the fact that working children are not responsible for the situation in which they find themselves, nor should they be considered as mere victims, but rather as actors whose participation is essential if an end is to be put to the intolerable situations in which they find themselves. The means enabling the application, in this sphere, of the provisions of article 12(1) of the Convention on the Rights of the Child, should be carefully examined.

Taken separately, these measures are necessary but they will not be sufficient: their combined application is the guarantee of their effectiveness. This raises on the one hand the question of the existence and role of national machinery for applying the future instruments and, on the other, that of cooperation between the different authorities responsible for such application. It would not be desirable to envisage the establishment of new mechanisms but rather to identify existing ones which could be used for this purpose. In this respect, it would be useful to take advantage of the impetus

## Freedom of opinion

(Article 12 of the Convention on the Rights of the Child)

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

created in some countries following the ratification of the United Nations Convention which led to the setting up of bodies with various statutes and mandates. Their final objective is to mobilize the largest number of interested institutions or persons with a view to improving the application of the Convention. Often, the Ministries of Labour, employers' and workers' organizations have not been invited to participate in the work of these bodies. It is important that, wherever such bodies exist, the Ministries of Labour, employers' and workers' organizations should be able to participate and express their views on the matters within their competence. This point has been the subject of observations by the Committee of Experts on the Application of Conventions and Recommendations for a number of years.

As regards the question of coordination, this depends to a large extent on the solutions adopted for the application machinery. The elimination of child labour, and in particular its most intolerable forms, depends on a large number of combined actions which in most cases cannot be taken by a single administrative authority.

Finally, it seems extremely important to draw attention to point 10 of the questionnaire for the new instruments, which reads: "Should the Convention encourage Members to assist each other ... by means of international judicial and technical assistance or other types of cooperation? ..." This would become the other innovative provision for an ILO Convention, obviously not contained in Convention No. 138.

It could be said generally that the ILO has been aiming at regulating *national* policy and legislation on labour matters through *international* labour Conventions and Recommendations.<sup>3</sup> In other words, *international* labour standards have been defining requirements of *national* action, as to what the *national* policy should aim at and what the *national* legislation should provide for within its boundary concerning, for example, child labour.

The idea expressed in the above point 10 of the questionnaire goes beyond this. It would become a truly *international* commitment of a ratifying State, i.e. not only to be concerned with the situation of child labour within its territory but also with the flagrant forms of child labour occurring anywhere in the world. The benefit of international assistance and cooperation would be most direct and immediate when the phenomena has an international dimension, such as trafficking in children or of pornography, international tourism involving

child prostitution. However, in view of the fact that comprehensive social measures are necessary in order to eradicate the extreme forms of child labour, international cooperation in various spheres would be of crucial importance in assisting the efforts of the concerned governments, which should, of course, commit themselves to do their best.

As reflected in the terms of the Questionnaire, the proposal is not to impose any concrete obligation of a financial or other nature but merely to *encourage* cooperation. Therefore, it is not intended to allow a ratifying State to *claim* any technical cooperation projects or resources as such from another ratifying State; nor is it meant to penalise any country for not financing this or that particular technical assistance programme, for example.

The value of such a provision would demonstrate the willingness for international action in a purely promotional provision.

Such a declaration of international commitment (although this will materialise through the ratification of the proposed Convention, which is a national action) would also make it clear that the international concern about child labour is not a disguised form of protectionism addressed only to exporting sectors, but based on the nature of atrocity, which cannot be tolerated wherever in the world.

The measures taken to apply the future instruments must be adopted within the more general framework of a national policy for the elimination of child labour. Otherwise, there is a great risk of transfers occurring between the most intolerable forms of child labour and work which, at first sight, would appear "more tolerable" but which will nonetheless prove detrimental to the child's development. Since such transfers are in no way hypothetical, the immediate elimination of the most intolerable forms of child labour should be considered as an element within a broader policy aimed, as indicated in Article I of Convention No. 138, at the effective abolition of child labour.

It is on this condition that the future instruments may make a contribution to the key idea which has inspired ILO action in this sphere since 1919: the elimination of child labour. The early Conventions sought to prohibit child labour in certain sectors of activity (industry, agriculture, commerce and services, transport, fishing, etc.) but not to eliminate child labour. These instruments make it unlawful to employ children in specific trades and occupations. Child labour is not viewed in overall terms but within a particular context, that of a sector of

activity in which action is taken by the State and perhaps by employers and workers. Convention No. 138, by referring to the effective abolition of child labour, re-establishes a link with the provisions of the former Article 41 of the Constitution (see article by K. Tapiola in this issue, pp. 3-8). But Convention No. 138 also contains provisions to prohibit child labour in a number of sectors, in particular those which were previously covered by the former Conventions on minimum age. It is in this sense that Convention No. 138 is a dynamic instrument: it seeks the gradual elimination of child labour, which it tolerates in many areas of employment or sectors of activities, while prohibiting child labour below a pivotal age in a limited number of sectors of activity as well as in work which is dangerous or likely to jeopardize a child's development.

The future instruments mark an additional step on the path towards the abolition of child labour. Their aim is not only to prohibit the most intolerable forms of child labour, and thus to free children from these extreme situations, but to allow the development of children and adolescents. This is why the measures to be taken to prevent children from engaging in forms of work or activities covered by the future instruments or from returning to such activities and to provide them with direct and appropriate assistance are key elements of the future Convention. The abolition of child labour cannot be decreed: it requires the adoption of laws, the implementation of measures which seek, for example, to assure the right of all persons to education (established by article 13 of the International Covenant on Economic, Social and Cultural Rights), in particular through the establishment of compulsory primary education provided free of charge to everyone. Whatever the criticisms which can be levelled at school systems – and the profound reforms which must be undertaken – the school is the only institution capable of giving children a minimum level of training enabling them to prepare themselves for the world of work and life in adult society. The abolition of child labour also requires action against poverty, which itself necessitates consideration of the distribution of incomes in the societies concerned. Finally, a proper under-

standing of the subject requires the education of public opinion in order to shed light on the realities of exploitation and child labour, as well as on the means used to redress the situation. In addition to these overall (at the State level) actions, considerable attention must also be given to diversified measures at different levels (central, regional, local), with priority attention to risk environments and grass-roots initiatives. It is at this level that the provision of services to children (information, hygiene and safety, nutrition, school support) may have the greatest effect.

The adoption of new instruments on child labour is one means of action which must be taken without delay to combat what is intolerable; at the same time, it establishes a framework for the other eight means of action to be taken at the national and international levels as proposed in the ILO report on child labour: the adoption of a programme of action matched with a time-table, its aim being the abolition of child labour; the immediate end to extreme forms of child labour; the prohibition of child labour under the age of 12 or 13 and special protection for girls; the implementation of remedial measures to ensure the definitive departure of children from dangerous work; the adoption of preventive measures; the designation of a responsible national authority; an increase in financial aid to combat child labour and to “make a crime against a child universally recognized as a crime”. Far from being an end, the adoption of these new instruments should be the starting-point of a programme which will lead, at the beginning of the twenty-first century, to the elimination of child labour and exploitation within a context of lasting development.

## Notes

<sup>1</sup> International Labour Conference, 86th Session, Geneva, 1998, *Child labour: Targeting the intolerable*, Report VI(I).

<sup>2</sup> International Labour Conference, 85th Session, Geneva, 1997, *The ILO, standard setting and globalization*, Report of the Director-General.

<sup>3</sup> Professor T. Hanami: “Industrial relations and the future of the ILO: Changing issues and actors” in *Visions of the future of social justice: Essays on the occasion of the ILO's 75th Anniversary*, ILO, Geneva, 1994.

# The Minimum Age Convention, 1973 (No. 138), and the role of trade unions

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The Minimum Age Convention, No. 138, is a dynamic instrument. It is general in scope, as opposed to sectoral, and takes a comprehensive approach towards the effective abolition of child labour. Therefore it provides a basis for “a coherent strategy against child labour at the national level.”<sup>1</sup>

However, Convention No. 138 does not offer a whole set of pre-determined standards ready for implementation. Many questions have to be decided by each ratifying State, starting from the general minimum age, the list of hazardous types of work, the exact scope of application, and others. This process is intended to give flexibility to the instrument, and requires a pro-active approach and continued endeavour on the part of ratifying States, i.e. not only the governments but also the social partners.

The Convention explicitly requires consultation with employers’ and workers’ organizations prior to most of the national decisions to be taken in application of the Convention: for instance, at what age should the general minimum age be fixed, whether exclusion from the scope should be made or not, what should exactly be in the types of hazardous work to be prohibited to higher age, etc. Thus, the reality and specific practices of various sectors in each country could be reflected in the national standards regarding child labour. In addition, such tripartite consultation on each issue would certainly contribute in itself to awareness-raising in the country.

Apart from the above “built-in” role of trade unions in Convention No. 138, more generally, trade unions are always expected and encouraged to play an active role in shaping, adopting and implementing. The constitutional procedures of representation and complaints can be initiated by trade unions or their delegates in extreme cases of non-observance. Before availing themselves of this resort, the Committee of Experts has never stopped paying full attention to the observations received

from employers’ or workers’ organizations on the application of ratified Conventions. This role is all the more accentuated within the framework of an issue like child labour, where legislative provisions are often far removed from a full application in practice.

Unfortunately, there have so far been only very few occasions when trade unions submitted comments on the application of child labour Conventions, except for the cases of forced labour under Convention No. 29 involving children among others. If Convention No. 138 has not been ratified by a country, it is possible to invoke other ratified Conventions that relate to child labour, such as earlier Conventions on minimum age in particular sectors. Convention No. 81 on labour inspection could be useful regarding a failure to ensure the practical application of existing national labour legislation about children and young workers. Convention No. 117 on social policy (basic aims and standards) also includes provisions requiring the prescription of the school-leaving age and the minimum age of employment by national legislation. Thus, there are only a handful of ILO member States, including very new members, that have ratified no Convention at all bearing on child labour.

It is also important for trade unions to be actively and fully involved in the elaboration of the new instruments on child labour in 1998-99. However, there is no need to wait until the adoption of new standards to start efforts to make the most of existing Conventions. New instruments would not revise Convention No. 138, but would complement it. Convention No. 138 will remain the framework for combating child labour.

The following article is intended to place stress on the role trade unions are expected to play in the application of Convention No. 138. Certain parts of the text of the Convention have been highlighted in bold by the author for emphasis. The note on the right-hand side is an attempt to paraphrase the contents of the

Articles for easy reference and, when the strict meaning of the Conventions is sought, the original text of the provisions should be referred to.

## Text of the Convention

(*substantive provisions*)

### Article 1

Each Member for which this Convention is in force undertakes to pursue a **national policy** designed to ensure the effective abolition of child labour and **to raise progressively the minimum age** for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

### Article 2

1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, **a minimum age for admission to employment or work** within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.

2. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified.

3. The minimum age specified in pursuance of paragraph 1 of this Article shall **not be less than the age of completion of compulsory schooling** and, in any case, shall **not be less than 15 years**.

4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, *after consultation with the organizations of employers and workers concerned*, where such exist, **initially specify a minimum age of 14 years**.

5. Each Member which has specified a minimum age of 14 years in pursuance of the provisions of the preceding paragraph shall include in its reports on the application of this Convention submitted under article 22 of the constitution of the International Labour Organization a statement—

- (a) that its reason for doing so subsists; or
- (b) that it renounces its right to avail itself of the provisions in question as from a stated date.

## Note:

<sup>1</sup> *Child labour: Targeting the intolerable*, Report IV(1), ILC, 86th session, Geneva, 1998.

## Note

### Article 1

*The principal commitments* of a State which ratifies Convention No. 138 are:

- (1) to pursue a *national policy* to ensure the effective abolition of child labour;
- (2) *to raise progressively the minimum age* for employment or work.

### Article 2

Determination of a *general minimum age* upon ratification of the Convention. (It could be raised later, but not lowered.):

- the minimum age should *not be lower than the age at which compulsory education finishes; and*
- it should *not be less than 15 years*.

Flexibility clause for developing countries (para. 4):

- the general minimum age could be *14 years*, initially;
- *consultation* with employers' and workers' organizations *is obligatory*, if this flexibility clause is to be used;
- those countries which opted for this flexibility have to continue reporting (under art. 22) whether the reason for doing so still subsists or not (para. 5).

### Article 3

1. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is **likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years.**

2. The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, *after consultation with the organizations of employers and workers concerned*, where such exist.

3. Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organizations of employers and workers concerned, where such exist, authorize employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

### Article 4

1. In so far as necessary, the competent authority, *after consultation with the organizations of employers and workers concerned*, where such exist, may exclude from the application of this Convention **limited categories of employment or work in respect of which special and substantial problems of application arise.**

2. Each Member which ratifies this Convention shall list **in its first report** on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organization any categories which may have been excluded in pursuance of paragraph 1 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the position of its law and practice in respect of the categories excluded and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.

3. Employment or work covered by Article 3 of this Convention shall not be excluded from the application of the Convention in pursuance of this Article.

### Article 3

The obligation to fix a higher minimum age for *hazardous employment or work*:

- *of not less than 18 years*;
- it is up to the national decision what exactly are the types of employment or work to be prohibited as hazardous work;
- *consultation* with employers' and workers' organizations *is obligatory*, before determining the types of hazardous work;
- the absence of such a list signifies a non-fulfilment of obligation under the Convention.

Exception (not based on the country's level of development, and on strict conditions of sufficient protection and training):

- from 16 years;
- *consultation* with employers' and workers' organizations *is obligatory*, if this flexibility clause is to be used;
- conditions: (1) the health, safety and morals of the young persons are fully protected, and (2) they have received adequate specific instruction or training.

### Article 4

(Flexibility clause.)

Offers the possibility to *exclude limited categories of workers* because of problems of application:

- *consultation* with employers' and workers' organizations *is obligatory* if this flexibility clause is to be used;
- the list of excluded categories must be included in *the first report* on the Convention, with the reasons for exclusion. (Exceptions cannot be added later.);
- *hazardous work* as defined by art. 3 should *not* be excluded.

### Article 5

1. A Member whose economy and administrative facilities are insufficiently developed may, *after consultation with the organizations of employers and workers concerned*, where such exist, **initially limit the scope of application** of this Convention.

2. Each Member which avails itself of the provisions of paragraph 1 of this Article shall specify, **in a declaration appended to its ratification**, the branches of economic activity or types of undertakings to which it will apply the provisions of the Convention.

3. The provisions of the Convention shall be applicable as a minimum to the following: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.

4. Any Member which has limited the scope of application of this Convention in pursuance of this Article–

- (a) shall indicate in its reports under article 22 of the Constitution of the International Labour Organization the general position as regards the employment or work of young persons and children in the branches of activity which are excluded from the scope of application of this Convention and any progress which may have been made towards wider application of the provisions of the Convention;
- (b) may at any time formally extend the scope of application by a declaration addressed to the Director-General of the International Labour Office.

### Article 6

This Convention does not apply to work done by children and young persons in **schools** for general, vocational or technical education **or in other training institutions**, or to work done **by persons at least 14 years of age in undertakings**, where such work is carried out in accordance with conditions prescribed by the competent authority, *after consultation with the organizations of employers and workers concerned*, where such exist, and is an integral part of–

- (a) **a course of education or training** for which a school or training institution is primarily responsible;

### Article 5

(Flexibility clause for developing countries.)

Offers the possibility to *limit the scope of application* initially:

- *consultation* with employers' and workers' organizations *is obligatory* if this flexibility clause is to be used;
  - this flexibility clause must be used *at the time of ratification* and cannot be invoked later;
  - the exclusion relates to branches of economic activity (economic sectors) and types of undertakings;
  - there are several sectors that must *not* be excluded:
    - mining and quarrying;
    - manufacturing;
    - construction;
    - electricity, gas and water;
    - sanitary services;
    - transport, storage and communication;
    - and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers;
- Regular reporting to the ILO is required even on the situations in the excluded sectors.

### Article 6

(Exclusion of work done in the framework of *training and education*.)

The Convention does not apply to work done in:

- (i) *schools* (general, vocational or technical) or training institutions; or
- (ii) *undertakings (apprenticeship) by those who are 14 years or older*,
  - if the work:
  - is carried out under conditions prescribed *after consultation* with the organizations of employers and workers concerned; and

- (b) **a programme of training** mainly or entirely in an undertaking, which programme has been approved by the competent authority; or
- (c) **a programme of guidance or orientation** designed to facilitate the choice of an occupation or of a line of training.

#### Article 7

1. National laws or regulations may permit the employment or work of persons **13 to 15 years of age on light work** which is:

- (a) not likely to be harmful to their health or development; and
- (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

2. National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article.

3. The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.

#### Article 8

1. *After consultation with the organizations of employers and workers concerned*, where such exist, the competent authority may, by **permits granted in individual cases**, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in **artistic performances**.

2. Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.

- is an integral part of: (a) a course of education or training; (b) an “apprenticeship” type of training in an undertaking with a programme approved by the authority; or (c) a programme of vocational guidance or orientation.

#### Article 7

(Exception to the general minimum age concerning *light work*.)

Light work means:

- (a) it is *not harmful* to the children’s health and development, and
- (b) it would *not hinder their education* or training (not only in terms of attendance at school but their capacity to benefit from the instruction given).

Light work may be permitted by national legislation:

- for persons *13 to 15 years of age*; (in the case of developing countries which have specified 14 as the general minimum age, *12 to 14 years old*);
- in the case of those who are 15 years or older and have not yet finished their compulsory education.

The government has to determine what activities could be defined as light work, and must also prescribe working hours and conditions of work.

#### Article 8

(Exceptions regarding artistic performances.)

*Artistic performances* may be allowed as exceptions to the minimum age provisions by means of *individual permits* issued by the authority. The following must be noted:

- *consultation* with employers’ and workers’ organizations *is obligatory* if this flexibility clause is to be used.
- the permits are given with the indication of maximum hours and working conditions.

### Article 9

1. **All necessary measures**, including the provision of **appropriate penalties**, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.

2. National laws or regulations or the competent authority shall define **the persons responsible** for compliance with the provisions giving effect to the Convention.

3. National laws or regulations or the competent authority shall prescribe **the registers or other documents** which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.

### Article 9

*All necessary measures* must be taken by the Government for the implementation of the Convention in practice.

In particular:

- *appropriate penalties* must be provided for;
- the persons responsible to comply with the national legislation must be defined in it;
- *registers* must be kept by the employer concerning employees or workers whose age is 18 years or less.

# Neil Kearney speaks on codes of conduct as new instruments for fighting child labour

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**Neil Kearney**  
General Secretary  
ITGLWF

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*In a concerted effort to arrest the progress of child labour around the world, enterprises have been adopting codes of conduct. Even a year ago, a bare handful had been adopted. Today, with the momentum picked up in the wake of a succession of international conferences on child labour over the past two years and the support given by the media, such codes now abound. In the following interview, Neil Kearney of the International Textile, Garment and Leather Workers' Federation (ITGLWF), shares his views and comments on the process and implications of such codes. Excerpts from a few codes are also cited on pp. 31-34.*

*L.E. – A few years ago, codes of conduct were still only theoretical. Today you tell me that they can be counted in their hundreds. Isn't that rather unexpected? Did you actually think that things would go so quickly?*

N.K. – No one expected such rapid movement. First of all, we need to ask why codes of conduct have emerged. The same question can be asked about social labelling. Both are a reflection of the failure of governments to contain abuses of workers' rights. They are also responses to the limitations of the ILO's ability to ensure that workers are not exploited around the world. Such exploitation has got out of hand in very many places in the face of the globalization process. Fortunately today, alongside the revolution brought by globalization, we are witnessing a revolution in communication. What happens today in the Dominican Republic or in Korea or in Viet Nam often appears on our television screens tonight. And exploitation, especially child labour, is newsworthy. Across the world, the public – and the public are consumers – have become increasingly aware of what is happening. They are posing many more questions now; and they are far from happy.

*L.E. – At this juncture, what progress has been made in terms of contents and implementation?*

N.K. – Until about 18 months ago discussion still centred on the content of codes of conduct because everyone assumed it would take years to persuade companies, in general, and the multinationals, in particular, to adopt them. For example, at the end of 1995, I was asked to speak at a conference in Italy on codes

of conduct. At the time, I thought we had discussed content enough and should be progressing to the next stages: how best to implement codes and how to actually monitor their implementation by a company.

Less than two years ago I was unable to find any detailed background material on implementation and monitoring of codes of conduct. Everything available related to content. A year later, however, scores of companies around the world had adopted codes of conduct. Codes have been negotiated at international level. Different bodies have produced what they call "model codes of conduct". But only now are we beginning to see the first material on implementation and monitoring.

*L.E. – And is that largely due to public outcry and public commitment to fighting child labour?*

N.K. – Unfortunately, 12-year old Iqbal Masi, an anti-child labour campaigner was murdered in Pakistan. He lost his life, but not in vain, because his murder brought home to the world the horrors of child labour, the extent of the exploitation that takes place and the lengths to which those who benefit from child labour are willing to go in order to perpetuate it. Maybe in time the name of Iqbal will be forgotten, but the revolution caused by his murder was dramatic and is continuing worldwide. Child labour is now at the centre of the political agenda in all the international institutions. But awareness has gone much further: when people start talking about the issue in depth they begin to realize that child labour does not exist in isolation. It accompanies all the other abuses and violations of human and workers' rights, starting with the lack of the

right of workers to associate freely, to join trade unions and to bargain collectively with their employer. Alongside this violation of the most basic of workers' rights crowd in a host of others: forced labour, child labour, discrimination, unhealthy and unsafe working conditions.

The whole issue is now alive in the public mind, and not only in the industrialized world. In Asia, for example, ordinary families whose children were previously working now attack the practice. They ask what future their children will have if they are going to be subjected to the same sort of exploitation as themselves.

*L.E. – Would you be more precise? Can you actually cite countries or places or workers?*

N.K. – The ITGLWF has begun a programme in six Asian countries, including Bangladesh, India, Nepal, Pakistan, the Philippines, and Thailand. It is aimed at ordinary union members, sensitizing them to the impact of child labour and how it perpetuates poverty. We have been surprised at the response of people once they begin to think. Their first reaction is: "Well, my children have to go to work. It is the only way we can feed them". Then they go on: "But on the other hand, if the adults in our family could work, if we all had jobs, our children would not have to work." They continue: "And because they are working, they have neither the time nor the opportunity to develop. In turn, they are going to find themselves in our position where their children will have to work." These are now common reactions of workers in the Philippines, in India and even in Pakistan.

*L.E. – That does, however, place the onus of social responsibility on whoever is in charge of such a project. If you tell people to stop sending their children to work, what is the alternative? Who provides the alternative?*

N.K. – You cannot merely just sloganize and say "End child labour." A comprehensive approach to the problem is needed. Children have to be taken out of the workforce. They have to be rehabilitated and placed into school. Families have to be provided with an income sufficient to enable them to do so. Where do you start? To begin with there should be no new recruitment of child labour. Then the youngest working children, especially those under the age of 12 or 13, should be removed from the workforce, rehabilitated into school, replaced by unemployed adult members of the

same family. That is not impossible, because in virtually all those families – in the extended family – there are unemployed adults. Anti-child labour campaigners in India estimate that 55 million children work there. But 55 million unemployed adults live in the same areas.

It should also be emphasized that by making people more aware – ordinary people and the parents of working children – maybe we can begin – and I believe it is our responsibility to do so – to bring more pressure to bear on governments to pay greater attention to the resources that they devote to education, because one of the major problems in some of the countries with a high incidence of child labour is the lack of decent basic schooling.

Some governments say: "We cannot afford it." Sometimes this is unfortunately true and well-targeted international aid is needed. Other governments deserve less sympathy. When I see countries devoting 47 per cent of the national budget to so-called defence and 3 per cent to health and education combined – health and education combined! – I begin to wonder. Is it not possible to reverse that ratio – 47 per cent for education and health and 3 per cent for armaments? Such a reversal could bring about dramatic social change.

Other developing countries, such as Nepal, do not have such a major imbalance in their national budget. Nepal has been making a major effort to get children out of the carpet industry and would like to raise the school-leaving age to 16. Such a move needs very considerable resources. Nepal is a good example of a country which deserves assistance from the international community, and in two ways: firstly, aid for the development of a good educational infrastructure and, secondly, where manufacturers have cleaned up their act in getting children out of the labour force, I think we have a responsibility to encourage the world's major carpet retailers to consider sourcing from those manufacturers. For example, my ITS talked with one major retail buyer who had disengaged from Nepal because of his disgust at the exploitation of children. We said to him: "Could you please go back now? Have a look at what is happening. Maybe you can again do business there." Such action would not just benefit the Nepalese economy, but would provide encouragement to continue the disengagement of children from working. That particular company has re-ordered from Nepal, paying a higher price than before because the carpets, now manufactured by adults, are of better quality.

*L.E. – So nimble fingers are no longer needed?*

N.K. – The nimble fingers excuse was a fallacy. For example, Nepal could not sell its carpets in the Japanese market. The quality was not good enough because small children did not have the strength to tie the tight knots that make good quality carpets.

*L.E. – Are you convinced that codes of conduct will be instrumental in eliminating child labour?*

N.K. – Codes of conduct can be part of the solution, harnessing the power of the consumers. Consumer revulsion at worker exploitation has spurred media interest. Today, in the United States, it is nearly impossible to watch television for more than two hours without seeing stories about child labour, exploitation of workers, or sweatshops. This has important implications. Recent research from the Stern School of Business at the University of New York suggests that 30 per cent of a company's stock value is based on its reputation. If that research is correct, it would explain why some of the major companies – manufacturers, merchandisers and retailers – have been rushing to adopt codes of conduct. We always used to think that the major concern of such companies was about loss of market share, arising from negative publicity, but these research results seem to suggest that the major concern is now loss of stock value. They also provide trade unions with new weapons to use in the fight against exploitation. Currently, some 60 per cent of the funds that circulate in the stock markets of the world are institutional – pension funds, etc. Most of this is workers' money. In many countries trade unions can have considerable influence on the pension funds concerned. In the past, however, pension trustees usually responded soothingly, claiming to be sympathetic to the need for morality in investment but hiding behind their legal responsibility to maximize the returns for their members. If 30 per cent of stock value is based on reputation, and if exploitation can damage reputations, then the trustees of pension funds have a new reason for looking at the social dimensions of investments.

*L.E. – If I look at the code of conduct adopted by the Presidential Commission of the United States, it is not only a very substantial document, but the machinery it proposes for implementation and monitoring is impressive. Was it easy to negotiate such a code? And is such elaborate machinery realistic?*

N.K. – Let us first look at the question in general terms. The content of codes of conduct is very important, as is the way they are written. Trade unions believe all codes must include the areas covered by the ILO core Conventions: freedom of association, the right to bargain collectively, no forced labour, no child labour, no discrimination. But they should go further and ensure proper remuneration for work. A code cannot realistically specify wage earnings, but reference to a living wage is needed – a wage that will allow the workers involved not just to subsist but to live in reasonable comfort and to have a little bit left aside as disposable income. That is, of course, one of the more difficult issues to negotiate. Codes of conduct also need to regulate hours of work.

In the code which came out of the Presidential Commission in the United States, content is important. The way the content is expressed is important. It has to be clear for two reasons: first, the workers whom it is intended to cover should be able to understand it. You can write codes in legalese and nobody, not even the lawyers, would understand them. Second, it has to be clear and straightforward in order to be audited. Essentially, the independent monitoring process is an audit of its implementation. Again, each item referred to must be drafted in a way that is "auditable".

*L.E. – And translated into different languages?*

N.K. – That is a the third reason for clarity.

*L.E. – Who will be responsible for their implementation?*

N.K. – The individual companies concerned. Codes are meaningless unless they are implemented. Many codes, to date, have been adopted largely for public relations purposes. There is no benefit for anyone in that, neither for the workers who are being exploited, nor for the company adopting the code. Indeed, the company then becomes subject to even greater criticism. People say: "Ah, you have your code of conduct but you have not implemented it. You are cheating." Companies who adopt codes of conduct have to recognize that it is not a space suit that is going to protect them from the atmosphere outside. If anything, it is going to attract criticism. Levi Strauss was one of the first companies to adopt a code of conduct. It is quite good. They have also made efforts to implement it. For example, they have

withdrawn production from Myanmar. They indicated publicly that they would not source any longer from China. China accounted for two per cent of all Levi production. That was a significant decision to take. All the same, every month there are criticisms of Levi. Such attacks are inevitable: codes act like a lightning conductor. They attract attention. It means the company has to be responsive to criticism and try to put right what the lightning rod actually conducts. That is one of the benefits of a code.

*L.E. – So are you saying that codes of conduct are really an institutionalized form of social accountability?*

N.E. – In many ways demands for social responsibility by companies are now developing in much the same way that demands for financial responsibility developed. At first, companies did not have to produce accounts. They just did what they wished. But then there were so many financial excesses that there was a clamour for proper accounting procedures. Then there were demands for the procedures to be implemented and monitored. Nowadays, companies approach their financial obligations by adopting financial regulations. They employ accounts staff to apply and implement them. They themselves monitor through their internal audit and then the independent verification is undertaken by external auditors.

Textile trade unions have come to the conclusion that a similar approach is needed for the social dimension of production.

*L.E. – Monitoring systems are so often ineffectual: year after year routine reports are sent in but no meaningful improvements are ever achieved. What convinces you that the implementation of such codes would be more effectively monitored than any other instrument, for example an ILO instrument?*

N.K. – On the accounting front, it could have been like that. Initially, it was probably a bit like that, but standards were later established, professional methodology adopted, and auditors accredited. The financial auditing system works pretty well because if an audit company fails in its task it loses its credibility, its reputation is damaged, and it loses its business. I see this same thing happening regarding the social dimension of production.

*L.E. – Some of the codes include ILO standards. Is this a general trend? How do ILO standards get incorporated into these codes of conduct?*

N.K. – The initial codes did not really refer to or draw so much on ILO standards. But as trade unions have become more involved in the negotiations and the actual drafting of such codes, their scope has widened. Obviously, it is not easy to arrive at the right language when trying to cover issues such as freedom of association or child labour. The ILO Conventions provide the answers. What better wording for freedom of association or collective bargaining than that contained in ILO Conventions No. 87 and No. 98? Or the Minimum Age Convention, No. 138? Or Convention No. 135 on the right of union representation? That's one reason why a number of the draft codes that are being recommended are based on the core ILO Conventions. In many ways, maybe this whole exercise should have been initiated and conducted by the ILO!

*L.E. – I see the Milan code also refers to the ILO core Conventions. Who were the parties in the negotiations?*

N.K. – The Milan code is an example of a code adopted between unions and manufacturers. In such a code, unions will always be pressing for ILO standards to be incorporated because of the precision with which the provisions are drafted. Those charged with monitoring such codes – professional auditors, or perhaps social auditors, as they might be called – insist that the wording must be clear. Unfortunately, when faced with drafting difficulties, negotiators sometimes try to resort to a fudge word. Social auditors cannot accept fudge words because fudge words cannot be properly audited. They can mean anything.

*L.E. – Surely this new lease of social life and expectancy comes at a time when conditions are most difficult for workers and are getting worse. Should the emergence of codes of conduct in such large numbers be perceived as a threshold of what workers are prepared to tolerate?*

N.K. – There are levels of exploitation which are probably deemed acceptable because they are not overtly noticed. But in the last few years the extent of exploitation has been so great that it is causing revulsion.

*L.E. – Are you referring to specific events or situations?*

N.K. – Just the other day in Vietnam, in a shoe factory, 54 women turned up for work

not wearing regulation slippers. What was management reaction? The workers were told that they had to be punished and to serve as an example. They were forced to run around the perimeter of the factory twice – four kilometres – in boiling heat and blazing sun and high humidity. One woman fell unconscious. Twelve fainted. Some 20 of them had to be hospitalized. When stories such as these are presented on the evening news in the United States or Europe, people say: “This is not human.” That is what has been happening. You can actually kill people. You can kill a union leader and it does not provoke too much reaction. But when you have this sort of beast-like approach to workers, people are truly repulsed.

*L.E. – So you are saying that codes of conduct will help society to control such abuses?*

N.K. – People generally want a decent life and decent surroundings for themselves and for their families. They recognize that they can only enjoy these conditions if other people enjoy them as well. That is basic ground on which all else stands. It is borne out in today’s concern about the environment. That concern is now extending into concern about conditions under which our fellow beings are living and working. Five years ago I would have said there was more concern about dolphins than there was about children being exploited, but today there is real concern everywhere about the level of exploitation that is taking place.

*L.E. – Would you like to make any special comment about a recently adopted code of conduct?*

N.K. – One of the trail-blazing codes of conduct, probably one of the most extensive so far adopted, was that agreed between the World Federation of Football Associations (FIFA) and the international trade union movement including the ICFTU, ITGLWF and FIET. It grew out of the exposure of stories last year about the widespread employment of children in the stitching of footballs, mainly in Pakistan but also in India.

*L.E. – Why is the FIFA code particularly trail-blazing?*

N.K. – Because it was the most comprehensive one adopted until then, covering all the key areas of protection in keeping with ILO standards.

*L.E. – Have other codes used the FIFA code as a model?*

N.K. – Yes. Many now do. The latest is that of the World Federation of the Sporting Goods Industries. The same applies to the code of conduct from the Presidential Task Force in the US. You asked earlier whether the latter was easy to negotiate. The negotiations were long and arduous and there are one or two areas which have been the subject of some criticism, for instance the sections on hours of work and wages.

*L.E. – But the Task Force code provides for the lesser of either 48 hours per week and 12 hours overtime or the limits on regular and overtime hours allowed by the law of the country of manufacture.*

N.K. . But “48 hours per week and 12 hours overtime” is 60 hours. Then it goes on to say “except in extraordinary business circumstances”. In reality, it provides for beyond 60 hours. The 48-hour working week is supposed to be the maximum. In exceptional circumstances overtime may be required but it should not exceed 12 hours per week. The way this code is drafted suggests that the norm is 48 hours plus 12 hours, which gave rise to a lot of controversy.

*L.E. – The Task Force Code also provides for a minimum wage. Why did this section give rise to controversy?*

N.K. – The minimum wage in many countries is totally inadequate. Take Indonesia, where it meets only 80 per cent of the level needed for subsistence. The best way of arriving at reasonable wages is in free negotiation between representatives of employers and workers. It may not guarantee everything that a worker needs, but at least they have the opportunity to negotiate. We cannot decide in Geneva or in Brussels or in Washington what is the relevant wage for India or for Lesotho. That can only be determined locally. What we can say is that, regardless of where a worker is working, he or she, at the end of a working period, should be able to feed and clothe themselves and their family, provide a roof over their heads, basic education for their children and medical care when ill. Those are basic essentials, but the cost is different if you live in Switzerland or in Swaziland. It can only be determined locally. Some people talk about a “basket” of requirements. That’s what unions do when they go to negotiate. They work out

how much their members need to live on. They then base their wage claims on this.

As I said, none of these codes are easy to negotiate. There are sometimes contradictions or weak areas, and there has been some criticism of the Task Force agreement.

*L.E. – At what level do the actual negotiations take place ?*

N.K. – Codes are appearing all over the place. Some are with international trade associations. Others are with individual employers. Others involve Advisory Boards which include representatives of the top merchandisers and manufacturing companies, retailers, NGOs, trade unions and professional auditors. There is therefore a wide range of opinion.

*L.E. – Are they sometimes negotiated on a tripartite basis ?*

N.K. – Most codes have been unilateral. But the real debate today is about implementation and independent verification. I believe it is a whole new service area, just like financial auditing. Some trade unions say that codes of conduct should be an agreement between a union and a particular company and the union should monitor it. That is all very well if you are dealing with General Motors or Mercedes Benz, but if you are working in the textile sector we have thousands of companies in 160 different countries where there is little unionization. We need standards and we need an independent means of verification of those standards.

Some NGOs have said that the NGO community is in a position to monitor, but I listened last year to a representative of a medium-sized retailer in the United States which sources their textile, clothing and footwear items from 13,000 different suppliers. On average, each of those suppliers uses five or six subcontractors, so the items it retails are coming from 78,000 different sources of supply. Which NGO is going to monitor such a situation? That is why I, along with many others in the labour movement, have come to the conclusion that there has to be a professional verification service, that standards have to be professional, that the methodology has to be professional, and that there has to be a code of ethics for those who will monitor.

*L.E. – Would not labour inspection find its rightful place in such a process ?*

N.K. – It is an important responsibility of individual governments to ensure that their labour legislation is implemented but, unfortunately, labour inspection ranks low in the list of priorities of the vast majority of governments. If there were an adequate system of inspection we would not have forced labour; we would not have child labour; we would not have the poor health and safety conditions that we see across the world.

However, if I do not think it is the role of unions to monitor codes of conduct, I do believe that unions must monitor every workplace, but monitor them in the interests of workers, not in the interests of the image of a company in upholding its code of conduct.

*L.E. – What is your forecast for the future of codes of conduct ?*

N.K. – I do not guarantee that if you ask me in a year's time I will say exactly the same thing. Progress is rapid. Eighteen months ago I spoke in Italy about means of implementation, independent monitoring and verification of codes of practice. Today my approach is very different because the more we discuss these codes the more we see the details, the complexities, the new issues that have to be addressed. This is a very new field and thinking is advancing all the time. But we have gone quite a way down the road. There is no turning back.

This development has major implications for governments, because they determine the details of international instruments such as trade rules introduced under the WTO, ILO Conventions, etc. Here Governments can, according to their whims, decide whether or not to implement them. They can influence the discussions. However, when individual companies adopt codes of conduct, the governments in the producing countries have no say in the matter. In reality, governments cannot tell consumers what they will or will not buy. If suddenly, tomorrow, consumers were to decide they wanted to wear clothing that was manufactured inside out, manufacturers around the world would start producing it, because that's what consumers, not governments, want. Today consumers are demanding that their purchases be produced in an ethical way. That is what has given rise to more comprehensive codes of conduct. It has also given rise to the demand for social labelling. If consumers so demand, then all the opposition of those world leaders who have spoken out so strongly against a social dimension to trade cannot stop

it. They cannot silence the consumer: in reality, consumers vote with their shopping trolleys.

Soon, many of the governments who have been opposing the application of ILO standards and who today speak so strongly against linking trade and workers' rights will find themselves supporting such standards to counter the non-tariff barriers presented by the growing number of unilateral codes of conduct and social labelling.

Companies are increasingly getting involved in international collective bargaining, codes of

conduct are being adopted all over the place – hundreds of them – as well as social labelling. Backward traders and merchandisers close their eyes to the practices. That is no defence. Closing your eyes when the tide is coming in will not stop the tide advancing and overwhelming you. The demand for ethical production and respect for workers' rights is now unstoppable. Those companies which recognize and respond to this will be tomorrow's market leaders: surely ample reward for adopting a social dimension to their operations!

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Collective bargaining is a traditional tool of the trade union movement, and one way of relating to employers that trade unions alone can use. One of the main trade union strategies should be to use this tool to combat child labour. The outcome of such bargaining may be different kinds of agreement:

- the child labour issue can be included in general collective agreements;
- negotiations can establish codes of conduct. These can concentrate on the child labour issue, but ideally they should treat the child labour problem in the general context of trade union rights and human rights;
- trade unions and employers can issue joint policy statements;
- trade unions and employers can agree on joint Plans of Action, agreeing on both joint and separate commitments to take steps to eliminate child labour, as well as direct assistance for children removed from work and for their families.

Other parties such as government agencies and NGOs can sometimes join in these part-

nerships. The most interesting example at this time (July 1997) is the Apparel Industry Partnership being negotiated in the United States between the industry, government and the trade unions.

One of the most well known codes of conduct is the FIFA agreement. This agreement has served as a model for other agreements,

Figure 2.

AFRICA		Example: <b>CUT FLOWERS</b>			
		EUROPE			
grown, cut	transported by air	unloaded by ground crew	handled by customs	warehouse, wholesale	flower shop
IUF	ITF	ITF	PSI	IUF	FIET
Workers' education Organizing Direct assistance to children and their families Bargaining			Workers' education Awareness campaigns: press /TV/leaflets/posters Bargaining: Codes of conduct Fund-raising International solidarity Membership drives		

need not be “child-specific” to further the end of reducing child labour. Many “traditional” demands, if they are successfully negotiated, have a positive effect, and sometimes they are essential to a solution of the child labour problem. (See Figure 2.) Examples of such an approach may revolve around the following strategies:

- Trade unions, by promoting social justice and a living wage, will reduce the dependence of poor families on the income of their children.
- Bargaining for abolishing the piece-rate system and replacing it with a normal wage system ( on many plantations or, for instance, in the brick-making industry of India, the piece-rate system of payment is the single strongest force which keeps child labour alive).<sup>1</sup>

## Monitoring

Once agreements of any kind have been adopted, the challenge is to make sure they are being adhered to. Monitoring systems often seem to be the weakest link in many agreements – in some they are actually missing. Monitoring mechanisms still need a lot of development. Trade unions, however, can contribute to monitoring from within, and through their organizations teachers can be mobilized (rather than commanded) to participate actively in the monitoring of the educational component of rehabilitation programmes.

## Note

<sup>1</sup> Fyfe, Alec: *Bitter harvest – Child labour in agriculture*, ILO, Apr. 1997. “*12 hours a day every day*” – *Child labour in brick kilns in India*, International Federation of Building and Woodworkers, Geneva, Mar. 1995.

# Statements and excerpts from recently adopted codes of conduct

8 March 1996

## EuroCommerce and EURO-FIET

### *Joint statement on combating child labour*

1. EuroCommerce and EURO-FIET represent employers and employees in commerce. Commerce and distribution employ more than 22 million people in the European Union, which is 15 per cent of total employment. The value added of 14 per cent which commerce and distribution bring to the European Union is crucial for the well-being of all Europeans.

2. The social partners consider it to be in contravention with the fundamental principle of human rights to exploit children in a way that deprives them of a natural adolescence and possibilities of education.

3. The European commerce sector is worried that exploitation of children still takes place in certain countries in connection with the production of goods for the European market, among others.

4. Therefore, the European social partners in commerce:

- emphasize that where child labour exists, the countries concerned have a duty to combat the exploitation of children, which is in violation of their human rights, including those embodied in the laws of those countries,
- urge the countries concerned to undertake measures with the objective of guaranteeing that the children's right to a normal adolescence and education is ensured,

- call for development aid policies to give positive support to these measures, as many of the countries concerned are developing countries,
- express their awareness of and support for the growing consumer demand for goods obtained from sources which do not exploit child labour,
- support the objective that, whenever possible, it should be avoided to deal with goods produced in contravention of children's rights,
- recommend that retailers, wholesalers and the international traders be alerted to *signs* which may indicate that a production process involves exploitation of children,
- recommend commerce to support reasonable and practicable steps to use only reputable suppliers.

5. The social partners in commerce realize that large enterprises and particularly large multinationals are able to apply more direct measures to avoid dealing with products that involve the exploitation of children than small retailers who purchase through third parties.

For EuroCommerce

*H.H. Kröner*  
Secretary General

For EURO-FIET

*Kenth Petterson*  
President  
Commerce Trade Section

## **Joint Declaration by the Football Association of Ireland and the Irish Congress of Trade Unions in support of the FIFA Code of Labour Practice**

In 1996, the International Confederation of Free Trade Unions, in a campaign against the use of child labour, exposed the fact that children as young as seven were being used to manufacture footballs that were marketed as official FIFA products. The children were paid as little as 50 cents per football. FIFA, with the support of the international trade union movement, moved to stamp out this practice by issuing a list of stipulations which must be met by manufacturers if their products were to be marketed as official FIFA merchandise. This became known as the FIFA Code of Labour Practice. As well as seeking to stamp out child labour, the Code established a set of minimum rights for workers employed in the manufacture of sporting goods endorsed by FIFA.

The FIFA Code of Labour Practice ensures that goods endorsed by FIFA are produced:

- Without the use of child or bonded labour.
- In a workplace where all workers are treated equally regardless of sex, race, colour, religion, political opinion, nationality or social origin.
- In a workplace where workers have the right to be represented by a trade union of their choice.
- In a workplace where workers are given secure employment and afforded decent wages and conditions.

The Football Association of Ireland and the Irish Congress of Trade Unions are happy to endorse the FIFA Code of Labour Practice and will work together to ensure that all products used and endorsed by the FAI and its affiliated clubs meet the standards set down in the code. Trade unions throughout the world will continue to ensure that sporting goods used and endorsed by all sporting associations and bodies are produced in an environment that is free from exploitation and respects the dignity of all workers involved in the production of these goods.

*Bernard O'Byrne*  
Football Association of Ireland

*Peter Cassells*  
Irish Congress of Trade Unions

## **United States: The Apparel Industry Partnership Workplace Code of Conduct**

### *Excerpt*

The Apparel Industry Partnership has addressed issues related to the eradication of sweatshops in the United States and abroad. On the basis of this examination, the Partnership has formulated the following set of standards defining decent and humane working conditions. The Partnership believes that consumers can have confidence that products that are manufactured in compliance with these standards are not produced under exploitative or inhumane conditions.

...

Child labour. No person shall be employed at an age younger than 15 (or 14 where the law of the country of manufacture allows) or younger than the age for completing compulsory education in the country of manufacture where such age is higher than 15.

...

**A joint declaration by  
the Norwegian Commerce and Offices Union (HK)  
and the Confederation of Norwegian Business and Industry (HSH)  
on measures to combat child labour**

1. HK and HSH (hereinafter referred to as the partners) represent workers and employers in the commerce and offices sector. This sector employs 330,000 persons in Norway, which accounts for about 14.3 per cent of total employment in the country.

2. The partners consider child labour to be inconsistent with the fundamental principles of human rights. With regard to the definition of child labour, reference is made to the United Nations Convention on the Rights of the Child and the relevant ILO Conventions, especially No. 138.

3. The partners in the commerce and offices sector express their concern that child labour still exists in specific countries in connection with the production of goods for the Norwegian market.

4. The partners in the commerce and offices sector:

- emphasize that, in countries where child labour exists, the producing country has an obligation to combat the exploitation of children, which is a violation of their human rights, including the rights set out in the legislation of the country;
- requests the countries concerned to promote measures with the aim of guaranteeing the development of children and ensuring their education;
- calls upon Norwegian development agencies to give positive support to this approach, since many of the countries concerned are developing countries;
- supports the work of the World Trade Organization (WTO) to include rules regulating trade in goods that are produced using child labour;

- expresses its understanding and support for increased consumption of goods obtained from producers which do not make use of child labour;
- supports the aim of avoiding purchasing goods that have been produced in violation of children's rights;
- requests wholesalers, the retail trade and international purchasers to be alert to indications that give rise to a suspicion that the production process involves the use of child labour, and requests Norwegian trade companies, in so far as possible, to check whether suppliers are making use of child labour in violation of international conventions and national legislation;
- requests the commerce and offices sector to support reasonable and practical measures designed to monitor the whole production process, including the use of subcontractors, and only to make use of honest suppliers.

5. The partners in the commerce and offices sector realize that large enterprises, and in particular multinational enterprises, have greater possibilities to spearhead successful action against child labour than small retailers, who often purchase through third parties.

6. The partners undertake to:

- provide data and information on the use of child labour to their members; and
- make this Declaration known to their members and, in so far as possible, endeavour to ensure the provisions of this declaration are followed up by the concerned Norwegian enterprises.

Oslo, 17 January 1996

The Norwegian Commerce  
and Offices Union

*Sture Arntzen*  
Union leader

The Confederation of Norwegian  
Business and Industry

*Anna-Grete Ellingsen*  
Administrative Director

*Editor's note: Free translation from original text.)*

*Excerpt*

### **The Walt Disney Company Code of conduct for manufacturers**

At the Walt Disney Company, we are committed to:

- a standard of excellence in every aspect of our business and in every corner of the world;
- ethical and responsible conduct in all of our operations;
- respect for the rights of all individuals; and
- respect for the environment.

We expect these commitments to be shared by all manufacturers of Disney merchandise. At a *minimum*, we require that all manufacturers of Disney merchandise meet the following standards:

...

#### **Child labour**

Manufacturers will not use child labour. The term "child" refers to a person younger than 14 or, if higher, the local legal minimum age for employment or the age for completing compulsory education.

Manufacturers employing young persons who do not fall within the definition of "children" will also comply with any laws and regulations applicable to such persons.

# Child labour on the trade union agenda

**Claudia Coenjaerts**

Chief Technical Adviser  
ILO technical cooperation project

*From 27 to 30 October 1997, an International Conference on child labour will bring together key actors from all over the world in Oslo, Norway, to identify national and international strategies for the elimination of child labour, specifically looking at how development cooperation and other forms of international collaboration can effectively contribute to this aim. This international forum demonstrates that the exploitation of children, which has re-emerged as one of the most appalling current social problems, is receiving the media and official attention it deserves.*

*Child labour is a global problem, and can only be combated effectively through concerted national and international action. It cannot be done away with in one night, nor through any single action, but requires instead a broad social mobilization of governmental and non-governmental agencies, workers' and employers' organizations. For many years now, the trade union movement has been addressing the matter as an important concern. But in spite of the obvious and increasing signs of interest from the international trade unions, it has generally not been a priority on the agenda of trade unions in the countries where most of the child labour occurs.*

*The following article uses the findings of a survey among 300 trade union leaders in Indonesia, Thailand and Viet Nam, and the experiences gathered through the project under which the survey took place, as a basis for identifying the potential role of trade unions in eradicating child labour, and understanding the reasons for the slow response of trade unions in developing countries. It also offers some recommendations on how existing obstacles could be removed.*

## **Box 1 The project's partners, objectives and approach**

In September 1995, the project Workers' Education Assistance to Strengthen Trade Union Action on Women Workers in view of Child Labour in Selected South East Asian Countries started to be implemented in Indonesia, Thailand and Viet Nam. The Belgian-funded project, to be scheduled to run over three years, is backstopped by the ILO Bureau for Workers' Activities, Geneva, and coordinated by the ILO Regional Office for Asia and the Pacific in Bangkok.

The *objective of the project* is to build the capacity of the trade unions involved to enhance the status of women workers and to combat child labour effectively. The main *strategies* are to produce workers' education materials and to conduct training programmes. Some of the training targets the sensitization of a variety of groups, while other training is more technical and addresses specific themes or bread-and-butter trade union issues.

A *mechanism has been set up* to ensure that activities respond to the needs and priorities of the counterparts. Steering Committee members in each country hold regular meetings to advise the project Chief Technical Adviser, suggest priority activities, identify training needs and evaluate materials to be used in training courses.

Since the selected countries have traditionally had large numbers of women workers and a high incidence or risk of child labour, particular emphasis has been placed on the following industrial sectors: textile and garment, food and beverage, electronics and metal, and agriculture and plantations. In order to ensure continuity in activities, produce tangible outputs and enhance overall impact, a number of *national trade unions were selected* as counterparts, while at the same time leaving room for flexibility to involve other workers' organizations, as and when appropriate. These counterparts are: the sectoral trade unions of garment and textile (SP-TSK), food, beverage, cigarettes and tobacco (SP-RTMM), electronics and metal (SP-LEM), and plantations and agriculture (SP-PP) in Indonesia; the Labour Congress of Thailand, the Thai Trade Union Congress, the National Congress for Thai Labour in Thailand, and the Viet Nam General Confederation of Labour (VGCL) in Viet Nam.

## The mandate of trade unions in combating child labour

From a general point of view, there are ample justifications for the role of trade unions in the fight against child labour. Although this article does not aim to provide an exhaustive list of explanations, some of the reasons for the practice and increase of child labour make the issue especially relevant to the mandate of the trade union movement, as follows:

- Poverty is probably the most important cause of child labour, and fighting poverty by ensuring acceptable wages and conditions for workers is seen by many as the key role of trade unions. The reality is that for many families, child labour is necessary for their survival. Moreover, poverty has been increasing in many places. Privatization, export-promotion policies, deregulation and flexibility measures are all part and parcel of structural adjustment programmes imposed by the International Monetary Fund and the World Bank which, while conducive to economic growth, also carry enormous social costs if the wide gap in incomes is not carefully addressed. Many people, particularly women, have lost their jobs in the process. The living conditions of poor families have often immensely deteriorated, and this in turn has forced many children to work for additional income. At the same time it is also true that as long as children are forced to work and prevented from attending school, they will, as adults, remain powerless and trapped in the vicious circle of poverty. Addressing child labour also means doing something about poverty.
- Where children are exploited, the economic interests of unions and their members are negatively affected. Children are naturally vulnerable to exploitation, and they are easily exposed to low wages, illegal work and bad treatment. Employers may even prefer employing them to adult workers, a practice which may only lead to more unemployment and an increase in poverty. Eradicating child labour also means improving the bargaining power of adult workers.
- There is clear evidence that where influential trade unions exist, the occurrence of child labour is less likely. But the enormous development of the informal sector of the economy has made it increasingly difficult for workers' organizations to organize their

workers along traditional patterns. Many of the growth-oriented policies also meant that fundamental workers' rights, such as the right to join organizations, or to establish collective bargaining agreements in Free Trade Zones, were restricted. In addition, work distribution and employment patterns have also significantly changed; more and more workers are employed in subcontracting arrangements, temporary jobs, homework and piece-rate work. They are flexible workers with no protection or security, and are not organized in trade unions. Addressing these changes and increasing existing levels of unionization will be vital steps towards reducing the occurrence of child labour.

Underpinning this rather pragmatic approach is the fact that child labour is a violation of human rights for which organized labour has campaigned throughout history. Some findings in the survey (see box 2 for details) support this concern.

- Nearly all the respondents felt that the abolition of child labour should be the concern of every trade union member. They recognized, however, that obstacles are difficult to overcome. Technical and financial resources were pointed out, in the three countries, as the main impediments in their organizations to fight against child labour.
- The respondents generally agreed that trade unions, as civil society organizations, have a general responsibility to fight all kinds of social injustice, including injustice to children. Many were even of the opinion that clauses dealing with the child labour issue could be included in collective agreements negotiated between the trade unions and employers.
- When asked whether child workers should be organized, more than 90 per cent of the respondents felt that a step in this direction would not be considered good trade union policy.

Although nearly all the respondents felt that the elimination of child labour should be the concern of all trade unions, experiences in the project as well as several of other survey findings have shown that child labour issues are generally not priorities on the trade union agenda. Some unionists in developing countries even question whether trade unions should be involved in this issue at all. Obviously there

are constraints and obstacles which hinder trade unions from translating “what should be” into reality. It is important to understand these constraints and obstacles and find ways to remove them as much as possible. The following section explores a number of specific activities which could be undertaken by trade unions in developing countries to combat child labour.

## Areas for action by the trade unions

### *Trade unions as raisers of awareness*

Both cultural and economic reasons have often acted as a brake on action against child labour. Too many people are of the view that child labour is an inevitable consequence of poverty and the development process, and that it is an essential element in building com-

petitiveness. Many parents are unaware of the importance of education and regard child labour as “normal”.

With easy access to the masses, trade unions have a tremendous potential to sensitize the public about the problem, suggest solutions to them, and convince them that change is possible and that child labour is a problem that can be tackled if there is sufficient political will. Conferences can be organized on the topic, inviting Government officials and employers. Information can be displayed at the workplace, making it accessible to both the workers and employers. To reach their own membership, they can use their journals or other appropriate communication channels. Different methods of workers’ education can be applied. To reach out to the public at large, they can provide newspapers, television and radio with regular features on the problem and on what needs to be done.

### **Box 2 Survey on how trade union leaders perceive child labour in Indonesia, Thailand and Viet Nam**

As the first activity of the child labour component of the project, a survey was conducted in Indonesia, Thailand, and Viet Nam. Three hundred trade union leaders representing various industrial sectors emphasized in the project, both men and women, responded to in-depth interviews on the problems of child labour and the potential contribution of trade unions. The survey was conducted nationally, coordinated by a national focal point, and took place between May and August 1996. Questionnaires were translated into local languages and trainers trained to conduct interviews.

The objectives of the survey were to:

- (i) provide a basis for identifying constraints faced by trade unions in Indonesia, Thailand and Viet Nam to further develop their potential in addressing child labour problems;
- (ii) indicate an appropriate programme to assist trade union efforts, specify the information they require, and identify the priority areas and activities from the viewpoint of trade unions in the three project countries;
- (iii) specifically provide information about:
  - how trade union leaders perceive child labour as an issue;
  - their understanding of the link between child labour and other socioeconomic issues, and the possible adverse effects of work on the safety, health, education and psychosocial development of children;
  - their views and understanding of national policies and legislation, and of international standards concerning the rights of children and child labour;
  - their views and understanding of measures taken on the international front to curb child labour;
  - their views on what can be done and on how they see their role in the fight against child labour.

The survey does not aspire to express the views of all trade union leaders in Indonesia, Thailand, and Viet Nam. The number of interviews were limited and there were several constraints in conducting significance tests or cross-analysing variables researched in the study. Nevertheless, its findings proved valuable in identifying some major constraints encountered by trade unions in effectively combating child labour problems in their countries.

## The role of trade unions in combating child labour according to the view of 300 trade union leaders in Indonesia, Thailand and Viet Nam

- 64 % of the trade union leaders interviewed thought that the most relevant role for workers' organizations in combating child labour is **sensitization**;
- 15 % felt there should be focus on **lobbying**;
- 12 % cent thought the **watchdog role** is a priority; and
- 9 % cent thought that **servicing and welfare activities** should come first.

### *Trade unions as a lobby group and as a watchdog for abuses*

Trade unions are in a good position to mobilize governments, employers and society at large to tackle the problem of child labour. They can put pressure on other politicians to make social development issues important, and to ensure that resources are allocated accordingly. In fact, some of the top level leadership from trade unions in the three surveyed countries are themselves members of parliament, and could significantly influence the political agenda.

Lobbying can call for the updating of legislation in line with internationally developed measures, or it can concentrate on monitoring the enforcement of international labour standards or other international Conventions (whether ratified or not), the implementation of action plans concluded at international conferences, including the suggestions made at the United Nations World Summit on Social Development in 1995 to allocate at least 20 per cent of state budgets for social policies.

Located at the workplace, they can be a watchdog for abuses and complement the work of labour inspectors. They can pressure

employers through campaigns or collective bargaining agreements to insist on the elimination of dangerous and precarious child labour and to ensure that protection and basic welfare services are available to those children for whom immediate removal is not possible. They can also conduct campaigns to make employers respect the child labour provisions dictated by multinational companies through codes of conduct. They can also report non-compliance with rules attached to trade agreements, labelling systems, boycotts, etc.

### *Direct union support for children*

Another possible area for action is to provide direct support for children, removing those working under exploitative conditions and, as a temporary measure, providing assistance to children who cannot be immediately removed and who are not in hazardous jobs through special welfare, education and training projects. However, taking into account the limited human resources available, selective targeting is necessary: for example, by just addressing one or a few industries at the time and applying the kind of assistance most appropriate in that particular case.

## Priority areas for action

The respondents were asked to give their opinion on which categories should be targeted for immediate assistance.

- In **Indonesia**, the priority target groups were factory and plantation workers.
- In **Thailand**, the children in sweatshops, trapped in prostitution, in factories and on construction sites were identified as those who needed attention first.
- In **Viet Nam**, those considered in most urgent need of assistance were children in hotels, restaurants, commercial establishments, family enterprises and construction sites.

### List of activities in order of preference

The trade union leaders were asked to rank a list of activities trade unions could undertake best to fight the problem of child labour. The table below presents their priorities in each country.

	Indonesia	Thailand	Vietnam
1	Informal education/ vocational training	Sensitize about ill effects	Sensitize about ill effects
2	Sensitize about ill effects	Lobby for legislation	Fund for child development
3	Fund for child development	Hot lines/ inform/campaign	Social welfare and develop- ment programmes
4	Lobby for legislation	Research on exploitation	Research on exploitation
5	Hot lines/inform/campaign	Fund for child development	Hot lines/inform/campaign
6	Educate children about their rights	Informal education and vocational training	Informal education and vocational training
7	Social welfare and develop- ment programmes	Educate children about their rights	Educate children about their rights
8	Organize child workers	Social welfare and develop- ment programmes	Collective bargaining agreements to improve working conditions
9	Collective bargaining agreements to improve working conditions	Removal from hazardous work	Removal from hazardous work
10	Research on exploitation	Collective bargaining agreements improve working conditions	Organize child workers
11	Removal from hazardous work	Organize child workers	

### Obstacles which stand in the way of trade unions in developing countries in their fight against child labour

The analysis below is based on the survey findings as well as on experiences gained in day-to-day work with the project counterparts. Each obstacle explains to some extent why child labour does not receive the attention it deserves.

#### *Institutional constraints*

The trade unions involved continue to struggle to develop their own institutional capacity and to organize effectively in the public sector and industrial enterprises. Much time and effort are invested for the sheer purpose of consolidating fundamental union rights. But even where trade union rights are recognized, the primary task remains that of building up

organizations from the mass of unorganized labour. It is especially in the sectors beyond the immediate scope of trade union organizations, such as the rural and informal sectors and in subcontracting work, that child labour flourishes. For the most part, existing institutional capacity is too weak to allow for experimenting with the innovative approaches required to reach out to these sectors.

#### *The need to expand the "trade union vision"*

The role of trade unions in fighting child labour becomes most meaningful within a broader political, social and economic context where global issues, such as the promotion of democracy, the fight against poverty and inequality, are incorporated in the agenda. Long-term issues frequently included in the mainstream agenda of trade unions in developed countries, such as solidarity, political

participation and environmental issues, rank only seventh, eighth and ninth among the ten agenda items in the countries surveyed.

### **Constraining perceptions**

(i) *relating to poverty*: Clearly, poverty is no doubt the most important reason for the persistence of child labour, but overemphasizing it can distort the picture and justify inaction, since it would be considered beyond the scope of trade unions. A large majority of trade union leaders interviewed thought that poverty was the cause for child labour, and nearly 90 per cent said that child labour existed because it brought essential income to the household. To achieve social justice, the vicious circle in which poverty and child labour maintain each other must be broken. The foremost condition for this is that adults work and children go to school. Trade unions must be convinced that this is a pursuable goal and that it is a part of their responsibility to make it happen (even though they cannot provide the services themselves). Fighting for a better society only ranked seventh in Indonesia, and ninth among ten possible agenda items of trade unions in Thailand and Viet Nam.

(ii) *relating to economic benefits of child labour*: Child labour is often wrongly explained as an inevitable part of the development process, as an essential component to maintain competitiveness, or as being irreplaceable for certain jobs. In particular, the respondents in Viet Nam (86 per cent), but also, to a lesser extent, in Indonesia (45 per cent) and Thailand (36 per cent) fear that replacing working children by adults would increase costs and challenge competitiveness. Over half of the respondents believed that some work can only be done well by children. These misconceptions must be clarified with the assurance that eradicating child labour would not negatively affect their economy and increase the poverty and misery of their rank and file members.

(iii) *relating to the extent of the problem*: Many people, among whom trade union leaders, are quite tolerant in their attitude towards child labour, mainly because they are unaware of its devastating social and economic effects. Nearly all respondents strongly supported ideas such as: the right to childhood, the need for special protection of children and the fact that children should not be put to work at an early age. At the same time, nine out of ten interviewees thought that child labour was

part of the culture and that it should not be magnified. A possible explanation for this paradox is that many are not sufficiently aware of the hazardous and exploitative types of child labour that exist.

### **Lack of coordination at the national level**

Without a coherent national policy, the fight against child labour cannot be a success. Obviously, the ultimate responsibility for tackling the issue lies with the government, but it is important that all actors join forces. In most countries mechanisms to coordinate activities exist, but rarely have trade unions been effectively integrated into these networks. In Indonesia, Thailand and Vietnam, just over half of the interviewees know of a coordination mechanism in place, or whether government programmes in the field of child labour have been introduced.

### **Insufficient knowledge of national and international tools to curb child labour**

Appropriate action against child labour can only be undertaken when such information is widely available. With little information about such important issues, trade unions will continue to be marginalized from the main scene where the fight against child labour occurs, and will not be able to play their potential role. Moreover, with little knowledge/exposure to *HOW* they can, in practice, elaborate their role as watchdogs and lobbyists, their contribution in this area will continue to be of little significance. Survey findings indicated that much essential information is unknown to trade union leaders.

(i) *National tools*: The majority of the respondents knew the minimum age for admission to employment and the age for compulsory education, but hardly any respondents were aware of important details of the regulations in force, such as the scope of application, enforcement procedures, etc.

(ii) *International tools*: Regarding international legislative tools, only a small majority knew that the UN Convention on the Rights of the Child (1989) had been ratified by their country; less than half were aware that the Convention included provisions related to child labour; three out of ten confuse the Convention with an ILO Convention; just over half of them knew that Convention No. 138 on the Minimum Age

for Admission to Employment is one of the core Conventions of the ILO; one-third had some awareness about the provisions in the Convention; one-third knew whether the Convention had been ratified by their government.

### ***Insufficient involvement in the international campaign against child labour***

Child labour is a global problem that deserves worldwide commitment. During recent years, there are increasing examples of how the international community, including governments, trade unions, employers and civil society are actively taking responsibility to do something about it, and it has become an effective way to put pressure on less willing governments to adopt a thorough “anti-child labour” policy. The international campaign is also an effort to promote international solidarity and to

ensure a fair trade environment in which basic trade union and labour rights are thoroughly respected. But trade unions in developing countries are rarely well informed on what these measures mean and their implications.

(i) While a large majority of trade union leaders in Thailand and Viet Nam and, to a lesser extent, in Indonesia, agreed that child labour should get worldwide attention and that it was a global problem, many of them showed a perception of the international campaign against child labour which deferred from the predominant viewpoint of trade union leaders in industrialized countries. For many, these issues remained alien concepts, which have a connotation of being “western” and “protectionist” measures. There is clearly a concern that some of these measures may affect them in a negative way and would increase poverty and unemployment.

### **Box 3 Technical cooperation: Placing the child labour issue higher on the trade union agenda**

Women’s issues and child labour are related in many ways, and obviously links between the two components of the project are being made where possible. At the same time, however, the existing institutional capacity with trade union counterparts (including the degree of awareness, organization and structures) to respond to women workers’ or child labour issues is quite different, and this unevenness has made it necessary to set up separate and relevant programmes for each.

Knowing that commitment can only be built when activities reflect the needs of those involved, the Steering Committees play a crucial role in deciding what to do to combat child labour, and how it would be implemented. A strategic framework is provided by the project to guide them in doing so, all the while closely collaborating with the International Programme for the Elimination of Child Labour (IPEC), the more substantial ILO technical cooperation programme.

The focus is on institution building and policy development, and on developing functional child labour units in trade unions at all levels (or integrating and strengthening them where they already exist). This includes technical assistance to determine the structural requirements and training required to develop technical skills of staff. Courses can be on many subjects e.g. how to develop sensitization programmes, how to set up campaigns, how to develop direct support programmes, etc.

In order to synergise experiences in the three countries, a common approach is used in Indonesia, Thailand, and Viet Nam to the extent possible. Some of the activities cover the following:

- Conducting a survey among trade union leaders in the three countries (see also box 2). The findings were used as a training needs assessment to develop appropriate training materials for trade unions.
- Awareness-raising workshops on child labour were organized nationally and were concluded with a policy statement.
- According to the needs and capacities of the trade unions in each country, follow-up activities are being organized which will improve the institutional capacity of the trade unions involved.
- A study tour is envisaged to expose focal points in the trade unions to the experiences of other trade unions concerned with the child labour issue.
- Successful approaches of individual trade unions will be shared at a subregional meeting at the end of the project.

(ii) Nearly all trade union leaders in Viet Nam, but only a little over half of the respondents in Thailand and Indonesia, have a basic understanding of the meaning of a social clause. Generally, very few had an in-depth understanding of the issue.

(iii) Only one-third of the respondents were of the opinion that human and workers' rights issues should play a role in the selection of local counterparts by multinationals, and very few had ever heard of codes of conduct; those who had heard of the codes generally felt that such guidelines were too "western", did not take sufficient account of the local situation, and could damage the interests of the country.

## **Some recommendations on how to address the challenges**

### ***Some strategic suggestions***

(i) *Focus initially on a small number of activities.* Taking account of the constraints faced by most trade unions in developing countries, including their limited financial, technical and structural capacities, it will be imperative to prioritize areas for action. In doing so, primary consideration needs to be given to those priorities and needs identified by trade unions, using their most visible strengths first. This could be, as the survey indicated, action in the field of sensitization.

(ii) *Gradually incorporate activities which lie close to their mandate.* Trade unions should be given hands-on, practical information and guidance when engaging in lobbying, preparing clauses for collective bargaining agreements and mobilization, since it is often their lack of exposure that keeps them from taking action in these areas. They can for instance be provided with checklists, guidelines, etc.

(iii) *Develop a vision that clearly specifies the social and political role of trade unions.* Combating child labour becomes even more relevant when looked at from the angle of the promotion of democracy and the fight for a better society, and against poverty and inequality.

(iv) *Develop alternative strategies for reaching out to the informal sector.* It is especially where trade unions are not represented, such as in subcontracting work, that child labour flourishes.

### ***A better information flow***

Explicit efforts need to be made to enhance the active involvement of trade unions in national and international forums on child labour. They must actively participate in the development of international trade union policies and action.

### **A better information flow**

There are several ways to improve the flow of information available to trade union leaders. To make it accessible to them, first and foremost, language may need to be simplified and materials translated into local languages.

- International trade union organizations as well as the ILO Bureau for Workers' Activities could more regularly disseminate among their member organizations information on international agreements, resolutions, guidelines established as codes of conduct, trade sanctions, international labour standards and other Conventions, or any other relevant international measures to curb child labour.
- International trade union organizations and the ILO can promote innovative approaches by ensuring that initiatives from local trade unions are documented and made known to others so that successes can be replicated, adjusted or further elaborated. While this can be done through the support of regional workshops or fellowships, cheaper methods can be used as well; newsletters and other networking mechanisms could be set up and supported with technical advice from international organizations and could be coordinated by them. This information must be available in local languages so that it reaches leaders at the plant and local levels.
- Setting up a child labour unit/focal point within the trade unions would facilitate coordination with other trade unions and organizations. But in order to be effective, such units must have some financial and human resources, linkages to other relevant departments in their organization, and focal points/staff need to be educated on how to address child labour problems within the trade union at all levels.

## **Training needs**

The trade unions at the local level could systematically include child labour issues in workers' education programmes, some of which may require separate training courses, while others can be more effectively incorporated in existing curricula. The ILO and international workers' organizations could actively

assist by providing the trade unions with appropriate modules on various subjects, including information on provisions and procedures of international labour standards, for translation into local languages. They could also, as appropriate, conduct or fund such courses, but the trade unions themselves would need to take the lead role in this event.

### **Training on general trade union issues**

- How to integrate child labour issues in existing curricula of workers' education programmes.
- How to negotiate with employers on child labour issues and lobby governments and other power groups on national and international measures to combat child labour.
- How to cope with change. Run participatory courses which would focus on skills of problem-solving, creative thinking. This could benefit trade union leaders' capacity to be actively involved in the combat against child labour. In addition to enhancing their capacity to deal with child labour issues, it would also stimulate innovative approaches and develop enthusiasm for new activities.
- How to improve networking and ways to strengthen their institutional structures to deal more effectively with child labour.

### **Specific areas where trade unions need to develop skills in order to fight child labour effectively**

- How to conduct research on problems related to child labour. The ILO could conduct workshops where they can learn to apply rapid assessment methods.
- How to develop and implement effective sensitizing programmes.
- How to set up and implement campaigns.
- How to design and implement specific action programmes on behalf of working children. (Some modules developed under IPEC could be translated into local languages.)

The hotel, catering and tourism (HCT) sector employs roughly 212 million workers, or over 10 per cent of the world's workforce in the HCT sector. By the year 2005 the industry's workforce in the HCT sector will reach about 338 million. In many developing countries tourism accounts for a large share of employment, incomes and export receipts. The sector is immensely diverse, ranging from luxury hotels and gourmet restaurants in the formal sector to cheap boarding houses and roadside food-stalls in the informal sector. Low pay and the lack of controls are among the main reasons why many young people and children are found everywhere in the HCT sector, especially in the developing world. This sector is also characterized by one of the most intolerable forms of child labour: commercial sexual exploitation.

## **Characteristics of child labour in the HCT sector**

### ***Types of child labour***

Children working in this sector are employed in a wide variety of occupations:

- hotels: bell-boys, waitresses, maids, hospitality workers, golf-caddies, etc.
- catering: servers of tea and snacks, dish-washers, etc.
- tourism: golf-caddies, dancers, beach-boys, guides, hawkers, etc.

### ***Child exploitation***

Child labour in the tourism industry is often associated with child sexual exploitation, an intolerable form of child labour. Attractiveness, particularly female sexual attractiveness, and youth are important components of employability. This is true even in perfectly ordinary bars, coffee shops or restaurants where the looks and manners of servers are seen as an aid to customer enjoyment and fidelity. In certain types of night clubs and bars, the atmosphere is

## **Pull factors**

Opportunity is the major “pull factor” for children entering the HCT sector. Although pay is low and volatile, tips may considerably enhance it. Economic alternatives for young people may be scarce or non-existent. According to one study on the Kenyan coast there was a tendency among beach boys to reject the discipline of family and mosque in favour of the “tourist scene”. In Acapulco, Mexico, a study recorded that a large number of youngsters liked to frequent the bars and discothèques patronized by tourists. Among street children engaged in the sex trade in Dakar, Senegal, street girls reported that they could earn up to US\$90, as compared to \$17 for begging.

## **Health hazards**

Many occupations in travel, entertainment and hospitality are hazardous to young people and jeopardize their health, safety and morals. This is borne out by ILO-supported studies undertaken in Kenya, Mexico, Philippines and Sri Lanka.

By working in the tourism sector, children suffer all manner of physical harm, either in the form of specific illnesses, impaired growth or loss of well-being. Work in kitchens is especially arduous involving endless chopping of ingredients and high accident risk, long working hours and generally conditions not conducive to the health of children.

Furthermore, abusive treatment by customers affects the self-esteem and dignity of children and carries the risk of lasting psychological damage. The health implication of sexual work is the likelihood of contracting sexually transmitted diseases. Drugs are another risk associated with sexual work. Accounts of street children who engage in sexual work refer to the use of solvents, alcohol, tobacco, and sometimes marijuana and cocaine, often to dull hunger pains and block out the difficulties of street life. Indications are that girls suffer more psychological damage than boys from sexual abuse and from early separation from their mothers. As for the psychological effects of sex-related work, they include the effects of social marginalization and stigma.

## **Social cost of child labour**

The social, educational and cultural costs of child labour in the tourism industry are considered enormous but cannot be quanti-

fied. The loss in educational opportunity is often regarded as an important negative impact for the child’s development. A Kenyan study found that 35 per cent of working children would in fact like to go back to school and prepare themselves for a normal life and a career. Some commentators have blamed tourism for family breakdown and the disintegration of relationships between male and female, young and old.

## **Vulnerability of the hotel, catering and tourism sector**

The HCT sector which is export oriented is very vulnerable and sensitive to public opinion. Worldwide attention in the media and international conferences on commercial sexual exploitation of children have tarnished the images of the tourism industry. The prosecution of “sex tourists” and sex offenders has become the subject of legislation and enforcement as well as international cooperation. There is a risk of boycott.

## **Responsibility of the HCT sector**

The industry must find ways and means to control and eliminate child labour and take affirmative action first and foremost with regard to its most intolerable form which is the commercial sexual exploitation of children.

## **ILO strategies and IPEC programmes to combat child labour**

As its chief operational instrument to help these children, the ILO’s International Programme on the Elimination of Child Labour (IPEC) is now working at a level of unprecedented scale and intensity. It is currently implementing over 700 projects on child labour in over 40 countries in Asia, Africa and Latin America. Recognizing that action against child labour is primarily a national responsibility, IPEC is concentrating on building and strengthening national capabilities and resources in four main areas of action as outlined below.

Support is given to partner organizations to develop and implement measures which could be used to combat child labour on four fronts: *preventing* child labour; *withdrawing* children from hazardous work, providing *alternatives*; and *improving working conditions* as a transitional measure towards the elimination of child labour. A phased and *multi-sectoral strategy* is applied consisting of the following steps:

- national policy-making and integrated programme development, focusing particularly on identified target groups demanding priority action;
- legislative reform and the strengthening of law enforcement;
- research, monitoring, data collection and analysis, and awareness-raising; and
- the mobilization of a broad alliance of all the partners concerned: government, employers' and workers' organizations, NGOs, academic institutions, the mass media and other professional associations assisting them to carry out demonstration projects to develop successful models and strategies.

### **Examples of IPEC Action Programmes**

To cite only a few examples, IPEC, since its inception in 1992, has given financial and technical support to the following programmes for the elimination of child labour in the tourism industry:

- (i) The Child Welfare Society of Kenya established rehabilitation centres for street girls mainly working as child prostitutes in Nairobi, Mombasa and Bungoma. These rescue centres have been serving as a temporary safe haven for the girls working under hazardous conditions detrimental to their health, morals and physical development. The objective of the programme was to strengthen the network of organizations dealing with working and street girls and to enhance their capacity by training social workers.
- (ii) In the Philippines, IPEC supported the Department of Labor and Employment for an integrated prevention and protection programme for children in the Tourism, Entertainment and Hotel Industry in Region I. This region is known for its beach and tourism establishments which employ mostly women including young girls. It has not been spared the social menace of child prostitution and paedophilia.
- (iii) In Thailand, IPEC supported the Development and Education Programme for Daughters and Community Centre. During 1994-95, the project protected young girls from poor tribal minorities in the North of Thailand from being lured into forced labour. In the initial phase (1993-94), one hundred girls received skills and

training and were encouraged to form their own support groups and return to their communities. Cooperation among local government agencies, businesses, NGOs, teachers and families was enhanced to prevent child labour migration from rural to urban areas.

During the present phase a larger number of girls benefited from intervention packages including skills-training, non-formal education, leadership training and awareness-raising at community level. Through expanded collaboration among NGOs, the business sector, community leaders, monks and the public in general, the programme became a truly sustainable provincial effort to prevent the use of child labour. In cooperation with the Ministry of Education, IPEC launched a programme to provide employable skills for girls at risk.

- (iv) Following the Thai model, similar programmes are now operational in Brazil and programmes are being developed in Sri Lanka.
- (v) At the regional level, two subregional programmes against child trafficking are being implemented in South Asia and the Mekong Basin.

### **Possible initiatives by key actors**

#### **Government**

- address child labour concerns in Hotel, Catering and Tourism Master plans;
- ratify the Forced Labour Convention (No. 29), 1930, and the Minimum Age Convention (No. 138), 1973;
- enforce child labour legislation by providing training for labour inspectors and imposing penalties for all forms of child exploitation;
- rehabilitate and reintegrate ex-child labourers;
- provide compulsory, free, quality, primary education for all;
- implement poverty alleviation programmes;
- provide infrastructure, health and sanitation.

#### **Hotel, Catering and Tourism Sector**

- put an immediate stop to the most intolerable forms of child labour such as commercial sexual exploitation;

- develop codes of conduct on the part of enterprises in order to prevent child labour;
- comply with national legislation on child labour;
- support activities that provide employable skills both to children at employable age and their families;
- implement innovative programmes to ensure adequate and full employment of breadwinners;
- implement responsible tourism marketing and advertisement;
- create awareness among tourism personnel on the rights of the child.

### ***Workers' organizations***

- include clauses in collective agreements prohibiting child labour;
- negotiate improved working conditions for adults in collective agreements;

- promote awareness-raising programmes among workers;
- advocate the creation of other options for employment and education of working children and their families.

### ***Consumers/tourists***

- promote fair tourism;
- raise awareness among tourists about child labour and child exploitation in all its different forms.

### ***The international community***

- raise awareness and adopt action plans/resolutions at international conferences;
- cooperate with INTERPOL;
- increase resources for prevention, withdrawal and rehabilitation under the International Programme on the Elimination of Child Labour.

# Child labour in agriculture

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**Alec Fyfe**  
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The following excerpt is taken from a publication entitled *Bitter harvest – Child labour in agriculture*, by Alec Fyfe, produced under the ILO project INT/96/MO6 NOR

## Hazardous work and forced labour

Children who live in poor, rural communities face the greatest risks from hazardous and exploitative agricultural labour. The risks are many. Children pick crops still dripping with pesticides or spray the chemicals themselves. According to data from Sri Lanka, death from pesticides poisoning on farms and plantations is greater than from other childhood diseases such as malaria and tetanus. Children face poisonous snakes and insects and cut themselves on tough stems and on the tools they use. Rising early to work in the damp and cold, often barefoot and inadequately dressed, they develop chronic coughs and pneumonia. The hours in the fields are long – 8 to 10 hour days are not uncommon.

Skin, eye, respiratory or nervous problems occur in children exposed to agro-chemicals or involved in processing crops like sisal. Children harvesting tobacco in Tanzania experience nausea, vomiting and fainting from nicotine poisoning. Frequent heavy lifting and repetitive strains can permanently injure growing spines.

It cannot automatically be assumed that children working on small “family farms” do not face these risks. In many countries, farms fitting this description produce much or most of the agricultural grains and/or fresh produce, and they may be mechanized with small machines and make heavy use of pesticides. Small farms are as likely as larger commercial enterprises to misuse chemicals, through lack of education and training in their handling.

Children are often included as part of hired family labour for large scale enterprises producing for export. Where a **piece-rate** or **quota system** operates it is assumed children work, though they are not formally hired. The use of casual labour by contractors in plantations on a piece-rate system not infrequently involves children as cheap labour who may engage in dangerous tasks. Management can plead in such

situations that they have no direct responsibility for the health and safety of child workers. With a dramatic rise in the use of **contract labour** worldwide the demand for child labour on farms and plantations is likely to remain strong.

Large numbers of children around the world are forced to work in the farm sector. Farming may account for more child forced labour than manufacturing. **Debt bondage**, found predominantly in South Asia and Latin America, is a form of modern slavery whereby, in return for a money advance or credit, a person offers their labour, or that of a child, for an indefinite period. Sometimes only the child is pledged, becoming a commodity in the process.

Debt bondage is commonly found in rural areas where traditional class or caste structures and semi-feudal relationships survive. Landless or near landless households, as well as migrant labourers, are particularly vulnerable to debt bondage because they have no alternative sources of credit. Debt bondage also occurs under land tenancy or sharecropper arrangements described above. When wages are insufficient to cover necessary expenditures such as food, tools or seed, tenants and sharecropper families often rely on the landowner for loans or other forms of advances.

In addition to reports of **forced labour** in the farming sector, there are situations of forced labour of children in the commercial fishing industries of Indonesia, Sri Lanka, the Philippines, India and Pakistan. Forced labour in commercial agriculture may also be found in the harvesting of rattan in the Philippines, sugar cane and rubber in Brazil, and vegetables in Honduras and South Africa. Such cases also occur on small-scale farms.

## What can be done ?

Improving legislation and enforcement measures has been the traditional response to child labour. However, particularly in developing regions, effective legal protection does not

often extend beyond urban areas and the formal sector. It is worth noting that the ILO Minimum Age Convention, 1973 (No. 138), explicitly excludes from its provisions “family and small-scale holdings producing for local consumption and not regularly employing hired workers”. Most national legislation mirrors this view and excludes agriculture. Moreover, given the geographically dispersed nature of agriculture, child labour legislation and public sector labour inspection services cannot be expected to cover more than large commercial plantations, if that. Besides, would it be a cost-effective use of limited resources to try and go beyond this? Other means must be developed for protecting children on smaller farms.

In this regard, community education and mobilization are essential. The task is to direct messages about child labour to the wider rural community and to governments. A key to the design of public awareness campaigns must be the recognition that it is an illusion to regard agricultural child labour as necessarily more benign than urban child labour. On the contrary, work on the family farm may demand too much of children, requiring them to labour long hours that keep them from school and take too great a toll on their developing bodies.

Such work can prevent children from exercising their rights and developing to their full potential.

It is also necessary to reach and educate rural communities about the alternatives to child work, in particular the importance of education 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.

Rural communities face the worse 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.

### **What can rural workers and their organizations do ?**

The capacity of trade unions to perceive and respond to the problem of child labour depends, quite obviously, on their level of organization. But rather than wait until they have built themselves up to take action against

#### **Box 1 The National Confederation of Workers in Agriculture (CONTAG)**

Most child labour in Brazil is found in agriculture where trade unions have also been active, more especially the National Confederation of Workers in Agriculture (CONTAG). CONTAG brings together 24 state federations and 3,200 trade unions which represent 9 million farm workers who belong to the Rural Workers Trade Union Movement (MSTR). CONTAG is responsible for the national coordination of actions related to the representation and defence of the interests of farm workers, including wage-earners (permanent and temporary) and small landholders (proprietors, squatters, tenants and sharecroppers). CONTAG's main activities involve guidance, organization and claims related to labour contracts (wages, law enforcement, etc.), agrarian and agricultural policies and development, social security, and health and educational policies. Its priorities are collective negotiations of labour contracts, agrarian reform, and the national organization of small landholders.

CONTAG's "Child Workers' Programme" started its activities in 1992/93 under IPEC. The activities were located in 88 municipalities of the States of Pernambuco, Paraíba, Rio Grande do Norte (northeastern Brazil), Mato Grosso (central Brazil) and Paraná (southern Brazil). There are large numbers of rural workers in these areas.

The main objectives of the action programme were to produce and disseminate information concerning the rights of rural working children and to train unionists and monitors to improve collective agreement clauses. The project produced 10,000 copies of a booklet on the rights of rural working children, provided five training courses for 150 union leaders and monitors and produced seven radio programmes aimed at awareness-raising using its network of 160 local radio stations. The success of the radio programmes was greater than expected.

The experience in combating child labour in agriculture contributed to a growing awareness among trade unionists and community leaders. This action programme also brought together parents and working children to discuss the working and living conditions of children in rural areas.

child labour, workers organization can use child labour campaigns as a means of attaining their goals. Indeed, it is the attainment of basic trade union objectives – jobs, increased wages, improved working conditions, no discrimination of any kind in employment – that can help combat child labour.

The active involvement of trade unions in combating child labour requires a step-by-step

approach which embraces: putting the issue on the policy agenda, developing structures, investigating and publicizing the various forms of agricultural child labour and those which put children at most risk, forming alliances with others, both within and outside the labour movement, to press for improved child protection measures and to advocate children's right to education.

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# Child labour in the diamond and gemstone industry in India

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**Chandra Korgaokar  
and Geir Myrstad**

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Today, the diamond, gem and jewellery industry carries the largest share of India's total exports. This share rose from 1 per cent in 1960-61 to 17 per cent in 1994-95.

Among the different components diamonds account for the bulk with around 85 per cent. India cuts and polishes 70 per cent of the world's diamonds in terms of weight, or 40 per cent in terms of value. Most of the rough diamonds that are cut in India are imported from abroad. India processes small diamonds, using traditional labour-intensive methods. About 1.5 million people are employed in the diamond industry, mostly in the unorganized sector. Bigger operators often seek to avoid the provisions of the Indian Factory Act by dividing their operations into many small units with different owners on paper. This makes it difficult to identify the employer. A 1996 survey showed that most workers did not know the name of their real employer or the name of the establishment in which they worked.

A small but rapidly increasing sector is the processing of precious stones. India contributes 95 per cent of the emeralds on the world market, 85 per cent of the rubies and 65 per cent of the sapphires. This gemstone industry does not fall under any labour legislation in India. Work is carried out on a piece-rate system, with a complicated system of middlemen between the worker and the exporter.

With a few exceptions, workplaces in these industries are normally congested, poorly lit and poorly ventilated. Conditions such as these, combined with long and irregular hours, cramped working positions, continuous stress and strain, are all sources of workplace sickness and injuries suffered by workers.

Although unions do exist within these industries, organizing is a difficult task: the unclear employer-employee relationships, the piece-rate system of payment, and the large differences in salaries, both between different groups of workers and from one area to another, are all factors that make it difficult to form unions. The biggest difficulty, however, is the strong objections to unions on the part of the employers. The employers themselves are well organized and can easily exclude workers from the labour market if they see them as liable to stir up labour unrest. In many workplaces armed security guards are stationed to protect the stones. It even occurs that employers resort to arms in labour disputes. On 4 April 1996, Shri Prashant Marathe, a diamond worker, was killed when the owner of the company and two security guards opened fire at workers during a dispute. Eight of his colleagues were seriously injured.

Children are also working under similar conditions. In the Surat area, one out of ten workers in the diamond polishing industry is a child. The 1996 survey carried out under the National Child Labour Policy Project showed that in this area, up to 40 per cent of the wage-earners in a family are children. (The highest figure only applies to areas with a high concentration of child labour.) In addition to the children who live at home and are sent to work, there is also a group of children in Surat who live within the workshop itself and work from a very early age. These children are migrant workers who have come from other areas, mostly in the company of adult workers.

Interviews with workers in the diamond industry in Surat who send their own children to work revealed that these were the workers

who were not artisans and who were at the bottom of the ladder both economically and socially. Their own work was very irregular and dependent on the power supply to the industry: no electricity, no work. They prefer that their children work in the diamond industry and perhaps acquire the skills of an artisan rather than go to school, because they have no faith that education from the school system will help their children find regular jobs.

However, it is mostly workers from the lowest rungs of the ladder in the diamond industry who send their children to work at an early age. Children of artisans, like diamond polishers, normally go to school for several years before starting their apprenticeship, and children of workshop owners and traders never work as children, even though they normally enter the diamond trade after completing their education.

There are no reliable statistics on the number of children employed in this industry. Official and unofficial estimates vary between 10,000 and 20,000. Children are engaged in large numbers in the making of *ghats* (rough cut stones), faceting, making holes (piercing stones) and polishing of semi-precious stones, but in the precious stone industry children are mostly engaged in cementing roughly shaped stones on the sticks and polishing the finished gems with oxides where there is no danger of any damage to the finished product.

Children in the gem polishing industry are engaged ostensibly as apprentices, but in fact provide cheap labour. The learning process takes five to seven years. During the first two years the child does not receive any wage except for occasional remuneration and works for ten hours a day. By engaging a child the *ustad* (master) contractor saves around Rs. 150-200 a month at this time. After two years the child is paid Rs. 50 a month, when he actually does work worth Rs. 250-300 a month, at the very least. Once the child has spent three or four years and has started learning to make more facets, he or she is worth at least Rs. 300 to 400, but is paid Rs. 100 a month. By the time the child is 14 or 15 years old and has acquired the skill of gem polishing, he would be earning Rs. 150-200 a month whereas an adult would get Rs. 500-600 for the same job. This is the juncture at which the contractor retains the services of the child in order to reap maximum benefit.

Eighty per cent of working children are either rickshaw pullers, bakery workers, barbers, and the like. The explanation offered by the parents was that manual work is very hard

and they do not want their children to end up doing the same work. They prefer to send their children to the gem polishing industry so that they may be trained in an occupation which is more remunerative. Most people said that about 80 per cent of the parents whose children worked full time had taken loans against the security of their labour but that the loans did not generally exceed Rs. 500. Nearly 50 per cent of the total child labour force in the gem polishing industry consists of children whose parents have either an uncertain income or a very hard life or both. These parents send their children to work in the gem polishing industry so that they will be spared working as coolies or porters, cycle rickshaw-pullers or hand-cart pullers, etc. Some parents see no great advantage in education which is quite expensive and prefer their children to be artisans.

To all evidence, cheap or free labour seems to be the main reason why employers in the diamond and gemstone industry in India prefer to use children. The savings involved where child labour can replace adult workers are considerable. In this respect the diamond and gemstone industry is different from other industries in India. A recent ILO study indicates, for example, that the labour-cost savings from using child labour are less than 5 per cent for bangles and between 5 and 10 per cent for carpets. Small costs like these could be added to the consumer price of the end product, and consumers would probably be willing to subsidize the cost of operating without child labour in these sectors.

For diamonds and gemstones the picture is different. A continuation of these industries without child labour would probably not be possible without a different division of the profits between the different operators in the chain of production, or without a restructuring of the industry as a whole. Some restructuring is probably needed anyhow, since it is also necessary to be able to establish more clearly than today the employer-employee relationship.

In the course of the workshop, efforts were made to develop strategies which trade unions could employ in a concerted effort to eliminate child labour from the diamond and gemstone industry in India. Three major avenues were found:

*First*, the trade union movement is under a clear moral obligation to bring to light and denounce child labour in the industry in question. Public awareness campaigns, especially in countries where there is a large market for

diamonds, had to be in the vanguard. These campaigns must be skilfully conducted and always complemented by other initiatives. Their aim should be to encourage employers to negotiate an agreement to eliminate child labour, to campaign for governments to take action, and to motivate consumers to support positive action. Campaigns that merely denounce the diamond industry as an industry where child labour is rampant can easily backfire by actually discouraging consumers from buying the product. The idea of buying diamonds as symbols of happiness, love and joy was created by the industry's own publicity campaign, creating large new markets. A negative image could easily weaken these markets, hitting not only the industry itself but also the workers and the children.

*Second*, the diamond industry is one which is very tightly controlled from the top, since the distribution of rough diamonds for pro-

cessing remains in the hands of a small group. This control can also be used to reduce child labour in the industry. The negotiation of codes of conduct should be the top priority in this area.

*Third*, for parents, and possibly also for the children themselves, *career possibilities* seem to be the most important reason for endorsing child labour and even preferring it to school. In the gemstone sector, UADW affiliates in Brazil have opened vocational training centres for gemstone polishing. Results show that six months of training is sufficient to learn the skills required to enter the gem polishing industry. If such vocational training centres could be established, where young people of school-leaving age could be trained, this would clearly demonstrate that it is not necessary to spend your childhood in a sweatshop to work in the gemstone industry as an adult worker.

# IPEC and trade unions

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**Satoru Tabusa**

ILO Bureau for Workers' Activities

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Since the inception of the International Programme on the Elimination of Child Labour (IPEC), the Workers' group of the Governing Body of the ILO has been emphasizing the need for and the importance of active involvement on the part of the trade union movement in the execution of the Programme, as trade unions can and should play a vital role in the fight against child labour. Workers' representatives in various ILO fora have also repeatedly urged that IPEC should increase its cooperation with trade unions at national, subregional and regional levels.

It is true that IPEC has been cooperating with trade union organizations since it was launched in 1992. However, the amount of such cooperation has been rather limited, particularly during the early years of IPEC's operation. The most frequent partner of IPEC during the first two years of the latter's operation was NGOs. This was understandable in the sense that NGOs are able to produce proposals for action programmes because those NGOs working on child labour issues can concentrate single-mindedly on the issue and they have acquired abundant experience in implementing projects. Thus, during 1992-93, more than 60 percent of IPEC programmes was implemented with international and national NGOs.

During the same period the share of the project implemented with trade unions was 7.1 per cent. This percentage rose to 11.9 per cent in 1994-95 and to 15.6 per cent during 1996. The initial lack of activities with trade unions may find an explanation in the fact that trade unions, unlike NGOs, have to deal with a wide variety of issues which affect workers' lives and it is not reasonable to expect them to devote all of, or even the majority of, their resources to activities concerning child labour. However, the subsequent increase in the number of IPEC activities with trade unions indicates that an increasing number of unions started to take up child labour as an issue and to put forward proposals for activities with IPEC. However, the increase has not been sufficient, and much more needs to be done

to promote trade union involvement in IPEC activities.

In terms of the actual number of activities, a total of 102 programmes of IPEC has been implemented with trade unions during the first five years of IPEC's operation (1992-96). This represents 12.2 per cent of total IPEC programmes. Of these programmes, 60 were implemented in Asia. This is because, until recently, the majority of countries where IPEC was operational was in Asia. Among the countries participating in IPEC, India (22), Brazil (18), and Bangladesh (12) had the largest number of activities with trade unions.

## **What type of activities can trade unions undertake to fight child labour?**

As organizations of workers, who comprise the large majority in society, trade union organizations are morally committed to promote social justice and fight all forms of injustice, of which child labour is one of the worst instance. In fact, as early as the mid-19th century, a trade union organization, the First International Association of Workers, called for an international campaign to stop child labour. In recent years there has been renewed and increased effort to combat child labour on the part of trade unions at both international and national levels.

Trade unions can play a significant and distinct role in the struggle for the elimination of child labour. They are the logical leaders for discovering and denouncing serious child labour abuses at the local, national and international levels. They can become credible advocates for the protection of children against workplace exploitation and abuse by documenting concrete cases of child labour and its effects on the children involved. Trade unions are especially well-placed to extend protection to working children and to advocate children's right to adequate education, while at the same time asserting the rights of adult workers to adequate remuneration, thereby reducing poor families' dependence on child labour. They are

also able to communicate to large numbers of adult workers and their families the importance of promoting the education of their children, of protecting them against work hazards, and of keeping them as much as possible from premature engagement in the labour market. As a major pressure group, trade unions have an important role not only vis-à-vis their employers in collective bargaining at the workplace, but also in partnership with others as part of the overall mobilization and sensitization efforts at the national and international levels.

### **Trade union action with IPEC at national level**

The majority of trade union activities implemented with IPEC so far can be divided into two types: awareness raising and direct action for working children. Most of the awareness raising activities were intended for the benefit of trade union officials and members. Some trade unions also conducted an awareness raising campaign for the general public. Child labour surveys conducted by trade union organizations may also be grouped as a kind of awareness raising activity.

Direct action on the part of trade unions to protect working children mainly took the form of non-formal education, skills and vocational training for children. This was done either through organizing classes in the area where the target group of children work or building a small school. Some unions have helped to remove children from work under hazardous conditions.

Herewith are provided a few examples of trade union activities implemented with IPEC support. These examples have been chosen to show the various strategies trade unions have been employing to combat child labour.

#### ● **Investigation**

The Central Organization of Trade Unions (COTU) in Kenya prepared a survey on child labour which will serve as the basis for its future work.

#### ● **Policy development**

The Central Unica des Trabalhadores (CUT), in Brazil has created a National Commission on the Rights of the Child and Adolescent within its Social Policies Secretariat with the aim of coordinating integrated actions to

protect the rights of the child and adolescent, including the right to be protected from economic exploitation, in cooperation with other unions and entities. It further aims to encourage the creation of similar commissions in its state branches and affiliated trade unions. CUT's social policy also encourages the active participation of its members in the *Forum for the Defence of the Rights of Children and Adolescents* and in the *Council for the Rights of Children and Adolescents*.

#### ● **Monitoring**

Monitoring units were set up by trade unions in India, Indonesia, Kenya, the Philippines, and Turkey. These units played an important role in awareness raising and in bringing specific abuses to the attention of the general public.

#### ● **Awareness raising**

This has been promoted by many trade union organizations in various countries by organizing seminars, producing leaflets, posters, and video programmes, local radio broadcasting, etc.

#### ● **Collective bargaining**

As this institution is the linchpin for trade union action, a relatively detailed description of one example follows.

The National Confederation of Agricultural Workers (CONTAG) in Brazil conducted training courses for union leaders on how to incorporate and improve clauses on children's rights, including child labour, in their collective bargaining agreements. An analysis of existing contracts was also conducted with a view to formulating and encouraging the insertion of "child labour" clauses in the collective bargaining agreements. In this connection, advice was given to trade union members in 17 states during the negotiation of their respective collective agreements. As a result, CONTAG has succeeded in incorporating child labour issues, including that of the protection of working children and the elimination of child labour, into the collective bargaining agreements. Other trade unions such as CUT, CGT and Força Sindical are following CONTAG's example.

Many clauses relating to child labour prohibit the employment of children under 14 years. These clauses state that the employment of

minors above 14 years is subject to the principles and provisions of the *Statute of the Child and Adolescent*. Some collective agreements, such as the agreement of coffee plantation workers, specify that there shall be equal remuneration for men, women, and minor workers above 14 years. Certain agreements even include educational provisions for the children of workers. For example, the collective agreement of cane-plantation workers of Pernambuco provides that employers engaging more than 50 workers must guarantee free primary school for their children. This obligation can be met by dedicating an area of the plantation for school purposes. Employers are exempted from this obligation only if there is a school within 1 km from the workplace.

### ● **Direct support to children**

The Tanzania Media Women's Association has set up a programme for domestic servants which raised the awareness of adult and child workers in this sector through meetings with parents and community groups in areas where child workers are predominant. The programme also promoted pairing of older servants with young child workers for advice and guidance. The programme is particularly effective in preventing young children from going into domestic service.

The Rural Workers' Union of Petrolina in Brazil helped to remove children working under dangerous conditions in fruit production by enrolling them in non-formal education centres and gardening schools which the union established.

It should be noted that there are many unions in the world that are actively engaged in activities against child labour independently of IPEC. Thus, the above are only some examples of numerous types of trade union action against child labour undertaken so far. The ILO Bureau for Workers' Activities has recently intensified its effort to promote cooperation between trade unions and IPEC, particularly at country level. In addition to encouraging closer contact between IPEC and unions in IPEC participating countries, consultations with international trade union organizations have been stepped up to look into the possibilities of urging their affiliates to join in a concerted effort to

fight child labour by undertaking appropriate activities. Some areas have been identified for possible action such as: coal mines, child prostitution and tourism, commerce (promoting code of conducts), plantations.

### ● **Trade union action with IPEC at international level**

Cooperation between trade union organizations and IPEC at international level has been more limited than at country level. This was partly accountable to the fact that the large majority of IPEC's budget was, and still is, allocated for activities at country level and the funds available for international activity are rather more modest - less than five per cent of IPEC's total budget. Such distribution is in accordance with the priorities set by the donors.

Trade union action with IPEC at international level mostly took the form of meetings and workshops organized by international trade union organizations. For instance, the International Confederation of Free Trade Unions (ICFTU) organized a seminar on child labour as part of its Youth Rally for Asia and the Pacific region. Three subregional workshops were organized by the Organization of African Trade Union Unity (OATUU).

It is expected that cooperation between IPEC and international trade union organizations will expand rapidly in the near future as a result of close cooperation between the ILO Bureau for Workers' Activities and IPEC. A number of international activities have been and will be organized to promote such cooperation. For instance, an Asian and Pacific regional workshop on trade unions and child labour was organized in Bangkok in July this year. The workshop brought together the representatives of International Trade Secretariats (ITSs), IPEC field staff, and specialists from the ILO Bureau for Workers' Activities in the region to exchange views on the role of trade unions in the fight against child labour and to plan future cooperation. A regional seminar for national trade union centres in Africa is scheduled for the second half of this year to discuss ways to promote child labour both as a trade union issue and as a social issue.

# Myanmar child workers: Little is known

*In 1991, the UNICEF representative in Myanmar reported that Myanmar's web was too imprecisely understood to allow a coordinated approach to addressing the needs of its children in especially difficult circumstances; that further study was required. Since then, a Letter of Intent was signed between ILO and UNICEF on 8 October 1996. The following excerpts are taken from three UNICEF reports: Myanmar children in especially difficult circumstances, by Dr. Jocelyn Boyden (Feb. 1992); Children and women in Myanmar – A situation analysis (1995); and Myanmar UNICEF Country Programme of Cooperation 1996-2000. Master Plan of Operations. In these reports, the question of child workers is briefly addressed.*

## School attendance rates

Assuming that most children not enrolled in school are at work, the degree to which they are involved in family or paid labour can be estimated by examining attendance rates. However, it should be noted that surveys of the school population show that labour is only one of the reasons why children fail to attend. For example, the preliminary report of the 1990 Gap Survey cites ill health, handicaps, restricted access to school and the costs of schooling as barriers to enrolment. Work apparently accounted for only 5.3 per cent of those not enrolled. Even though there are no direct data in Myanmar on labour force participation among children under age 10, school attendance rates in the cohort 5 to 9 years are very poor and work is clearly an important contributory factor. The Department of Basic Education estimated in 1990 that 38 per cent of children 5 to 9 years are never enrolled in school. Among those who attend, repetition and dropout rates are high – often as a result of the pressures of work undertaken outside school hours. Of those who initially enrol in primary school, less than 30 per cent complete grade four.

The 1983 census, the most recent national source on labour force participation, contains statistics on children over ten; but they misrepresent the number of children affected because only formal, full-time occupations are taken into account and information on school attendance is based on enrolment rates rather than how many days in the year children miss school or how many children repeat the academic year. Of course, these statistics are also out of date. The inflationary pressures of recent months will inevitably have pushed many more children into the labour force, especially among younger groups who will have been withdrawn from school.

According to the census, there were 533,800 children between 10 and 14 years of age (or

12.5 per cent of the total population in that age group) in the labour force a decade ago. The number of working girls, as a percentage of the female population in the age group, was slightly higher than boys – at 13.3, as opposed to 11.81 per cent of the total. Surveys carried out in other poor countries with largely rural populations and schooling by shifts indicate that roughly 30 to 40 per cent of children aged 6 to 15 work – often on a part-time basis, combining work with education. A similar proportion for Myanmar would indicate that some 4 million out of the total of 11.8 million children aged 6 to 15 could be working.

Given the relative distribution of Myanmar's population in rural and urban areas, it can be assumed that most child labourers are engaged in agricultural production. Thus, for example, of the 10 to 14 years recorded as working in the 1983 Census, only 37,962 were engaged in urban employment, the remaining 495,838 being concentrated in the rural sector. Yet the ratio of subsistence to commercial to cooperative farming is unknown. An effective CEDC (Children in especially difficult circumstances) policy must be informed by such statistics. It must also determine the presence of children in other rural industries, such as logging, gem extraction, poppy cultivation, hunting and fishing. Interviews conducted in Kuniong and Ken Tung indicated that in these areas the greatest labour burden falls on those aged ten and over because it is at this age that children are assigned heavy tasks that are essentially suited to adults, are more likely to be employed outside the family and are thereby less well protected.

In urban and peri-urban areas, older boys in particular are commonly engaged in masonry, construction and waiting tables in restaurants. Boys are also hired as apprentices in small workshops. While some are paid, apprentices are often rewarded only by meals. Girls and boys make an important contribution to Man-

dalay's lacquer industry. Again, both boys and girls, many as young as six or seven, are involved in domestic labour, rubbish collection, recycling and other street activities, such as petty vending in markets, along railway lines and on street corners in urban areas throughout Myanmar. In Yangon, for example, children sell fish they have caught and discarded vegetables they have collected on the floor of covered retail markets, or work as day labourers assisting stall-holders in carrying produce and vending. Because opportunities for self-employment on the streets of the capital are restricted by government policy, it is likely that many children face more disadvantageous employment relations in private homes, small workshops and other places where they are beyond the reach of the authorities.

### **Theft and trafficking**

Urban children are also engaged in illicit activities. For example, there is evidence that some children are involved in theft and small-scale drug trafficking in Yangon. Their numbers may well increase as detection becomes more effective, a strong probability since military intelligence has recently assumed responsibility for enforcement. Judging by the experience of other countries, more effective law enforcement will encourage adults to use child traffickers since children receive shorter sentences if captured. As suggested, this pattern already applies in Myanmar. Apparently, convicted minors are sentenced by military tribunals rather than juvenile magistrates, and boys are sent to the special correctional centre outside Yangon.

Other important illicit activities include begging and prostitution. The problem of child beggars has yet to be gauged, but two street boys interviewed in a railway station reported making their living in this way. ... There is significant evidence of child prostitution in Yangon and over the borders in Thailand. Little is known about more serious juvenile crime such as burglary but if UNICEF is able to obtain access to children in correction centres, information should become available.

### **Forced labour in border areas**

Years of armed conflict and militarization have resulted in children in border areas such as Ken Tung and Kunlong – and most likely throughout Myanmar – becoming involved in a series of especially hazardous occupations.

Logistical support for the armed forces on both sides of the conflict has traditionally been provided by forced civilian labour. In areas where there is a particular shortage of adult labour, such as in zones that have long been subject to fighting, children aged 10-12 years and above, both boys and girls can be found working as duty labourers in portage and road construction. Porters are especially vulnerable. In theory, porters are given food rations and construction gangs are supposed to receive a daily wage. In practice, duty labourers work in conditions of slavery and must supply their own food. Many people taken for portage are never seen again. Many flee their homes – sometimes escaping to Thailand – out of fear of being forced to work as porters. There have been numerous reports of maltreatment of porters and of starvation, disease and death.

### **Conscription at twelve**

Boys are also conscripted formally into the militia armies at the age of 12 and informally into the Myanmar army at age 14. Although they mostly carry out domestic duties in military camps, such as sweeping floors and assisting in the kitchens, they are also armed at times and can be seen undertaking guard duty. There are powerful incentives to enlist in the army because soldiers' families are exempted from duty labour and pay reduced taxes. These benefits apply to both the militias and the Myanmar army. Interviews held with boys in the Kokang militia revealed that most are orphans who lost their parents during the transfer of power.

...

If Myanmar follows the pattern of other developing countries, the situation of poor families may become more difficult with economic change and urbanization, bringing more children into the labour force, especially in the informal sector. An ongoing study of working children and women in the urban informal sector has revealed the following preliminary findings:

- Almost 30 per cent of working children had dropped out of school, 8.5 per cent had never enrolled in school, and 2.9 per cent were attending school but not regularly.
- The mean age for entering the labor force was 11.7 years. Among those children surveyed, 12.5 per cent were under 10 years,

With Myanmar's accession to the UN Convention on the Rights of the Child, a legal force has been added to the moral and political forces in this country that are working towards better protection of children in especially difficult circumstances. Like other such documents in human history, the Convention articulates a universally accepted ideal which, with sustained pressure from politicians, press and public, can eventually become the standard below which any nation, rich or poor, will be ashamed to fall.

Rolf C. Carrière  
UNICEF Representative in Myanmar  
1991

25.6 per cent were between the ages of 10 and 11, and 62 per cent were 12 to 14 years old.

- Ninety-five per cent of children surveyed worked in the informal sector, 62 per cent on a permanent basis. More than one-third were engaged in petty trade and 28.4 per cent worked in light industries.

It is also known that some children migrate around the country with their families in search of agricultural and construction work. For agricultural work, such families may temporarily settle in nearby villages. However, many of their children do not attend school, and their parents may be hesitant to use existing public health services. Children joining their parents on road construction have relatively few social services. Although no survey has been undertaken, children as young as 12 years old have been observed working with their families on road construction.

### Street children

In Myanmar, this term can be applied to children who spend most of their time on the streets, whether or not they maintain ties with their families. A small survey on street children conducted by the Young Women's Christian Association in 1994 indicated that there were approximately 10,000 street children in Yangon and Mandalay. Over 84 per cent were between the ages of 10 and 15, with nearly 16 per cent in the age group 5 to 9. Over 93 per cent were illiterate or had dropped out of the second or third year of primary school.

The majority of street children (66.4 per cent) were employed. About 24 per cent begged in the streets and nearly 3 per cent simply loitered. Working street children were engaged principally in scavenging (collecting recyclable items from garbage dumps), manual labor (e.g. portering or sweeping) and petty trading.

...

Over 40 per cent of children surveyed did not receive any support from their parents or guardians. Almost 57 per cent received partial support in the form of food, shelter or clothing. Only 2.7 per cent of children surveyed received full support, including schooling and medical care. The average daily wage was estimated at between 30-60 cents (US\$) at the unofficial exchange rate. Nearly 90 per cent reported spending 10-30 cents (US\$) on food each day. All children surveyed complained that they lacked adequate food, clothing, bedding and blankets.

The main contributing factors to the problem of street children are broken families, poverty, the death of one or both parents, and abuse in the home. Marginalized from society and vulnerable to exploitation and violence, the health and development of such children are at great risk. In the struggle to survive, they may resort to illicit or illegal activities, bringing them into conflict with the law. For example, street girls, especially those in their early teens, are particularly vulnerable to exploitation in prostitution.



INTERNATIONAL LABOUR OFFICE  
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BUREAU FOR WORKERS' ACTIVITIES

# Bitter Harvest

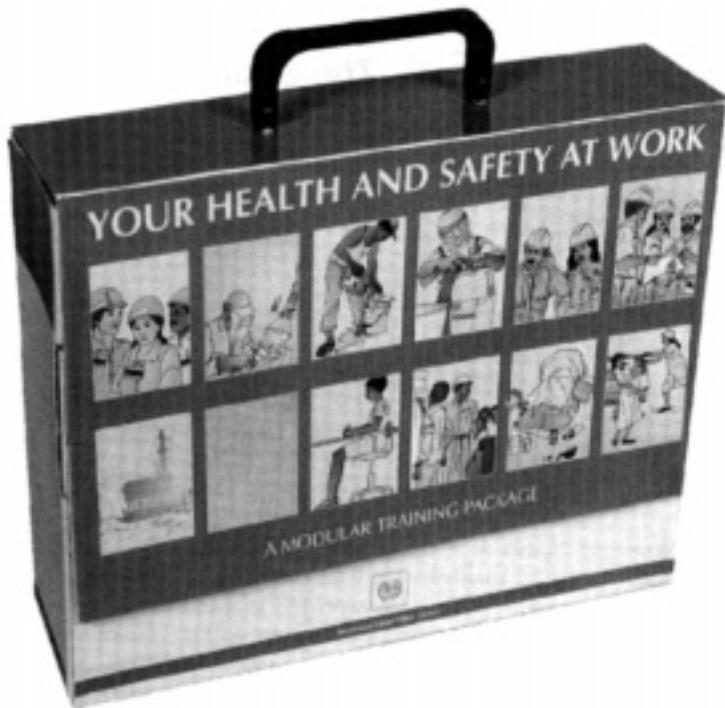
Child Labour in Agriculture

by Alec Fyfe



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# **Trade Union Experiences in Collective Bargaining in Central Europe**

**Pekka O. Aro  
Paula Repo**

