

COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW

New Zealand - 2022

THE EFFECTIVE ABOLITION OF CHILD LABOUR

REPORTING

Fulfilment of Government's reporting obligations

138 Fulfilment of Government's reporting obligations

Yes

Involvement of Employers' and Workers organizations in the reporting process

91. When preparing its report, the Government consulted [10.1]

a) The most representative employers organizations, b) The most representative workers organizations?

OBSERVATIONS BY THE SOCIAL PARTNERS

Employers' organizations

95. Did employers organizations comment on the report? [11a]

Yes

Workers' organizations

96. Did workers organizations comment on the report? [11b]

No

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT

Ratification	
Ratification intention	
21. What are the prospects for ratification of Convention No. 138?	Likely
Exercise of the principle and right	
Compulsory education	
25.a.	
25.b.	
Minimum age	
25.a.	
25.b.	
Special attention to particular situations	
29. Has particular attention been paid to specific groups of population, workers or sectors of activity in the efforts to promote effective abolition of child labour?	Yes
29.1. Please specify	<p>As noted in New Zealand's 2021 report, the Labour Inspectorate continues to investigate and take enforcement actions against exploitative breaches of labour standards, and young people in work are treated as a priority. The Labour Inspectorate Strategy and its Enforcement Policy, "Ensuring Fair Workplaces" include a focus on preventing the exploitation of young workers, recognising their potential vulnerability. The Labour Inspectorate also proactively targets sectors where there is poor compliance with minimum employment standards, and which tend to employ young and migrant workers such as retail, horticulture, hospitality and dairy. Gloriavale A complaint-driven investigation into Gloriavale (a self-sustaining Christian Community with a population of approximately 600 people) and its multiple companies was undertaken by the Labour Inspectorate. The issue was whether the community members were workers or volunteers as claimed by</p>

Gloriavale. Based on legal advice, employment and case law it was concluded that the community members were volunteers while the Inspectorate flagged concerns about the treatment of the community members with a number of government agencies who had jurisdiction. The Inspectorate's investigation finding was challenged successfully in the New Zealand Employment Court in 2022 by three former male community members who worked long hours from the age of six on farms and in factories at Gloriavale. A link to the decision is available online: <https://www.employmentcourt.govt.nz/assets/Documents/Decisions/2022-NZEmpC-77-Co-urage-Ors-v-Attorney-General-Ors-Judgment.pdf> The defendants argued that any work undertaken between the ages of six and 14 was chores or work required by their parents; that work undertaken when they were 15 was part of their schooling; and that work undertaken from 16 years of age was done on a voluntary basis. The Court ruled that the plaintiffs were in fact employees, because of the commercial nature of the activities, the long hours worked, and because the work was strenuous, difficult, and sometimes dangerous (thus being, in these cases, plainly illegal). The Court also ruled that work undertaken when the plaintiffs were 15 (and still legally obliged to be at school) could not be described as an educational work experience or as volunteering, and was thus also plainly illegal. The label applied to this work was misleading and did not reflect the real nature of the work and the basis on which it was being done. The outcome of this case redefines New Zealand employment law, and the jurisdiction of the Labour Inspectorate, who will now work with the three plaintiffs to proceed with enforcement action and calculate arrears owed. It also sets legal precedent; if other members of that community come forward with similar circumstances, the Labour Inspectorate will work with them and, if necessary and appropriate, take similar enforcement action. NZCTU Comment: No comment. BusinessNZ Comment: The Gloriavale case referred to is a good example of how unacceptable child labour can be dealt with in New Zealand, should it occur. The case is the exception, not the rule, and clearly demonstrates the willingness of the authorities to intervene in circumstances where the work in question is seen as reasonable by those in charge of the institution concerned but is nevertheless unlawful in employment relationship terms and involves the element of coercion.

Information/ Data collection and dissemination

26. Have efforts been made to promote the effective abolition of child labour in your country?

Yes

27. If yes, please specify:

d) Awareness-raising

Monitoring, enforcement and sanctions mechanisms

24. Have there been changes in law and practice in your country as regards minimum age for admission to employment?	Yes
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Involvement of the social partners

27.1. Please specify and indicate the involvement of social partners	<p>Please refer to New Zealand’s 2021 report for relevant initiatives and modalities. The Ministry of Business, Innovation and Employment continues to provide information for young employees, and for employers who hire young people or work in industries with young employees, including through: Employment New Zealand website content: https://www.employment.govt.nz/startinge-employment/rights-and-responsibilities/young-employees/ https://www.employment.govt.nz/startinge-employment/hiring/hiring-young-people/ Training resources - including the e-learning module: An Introduction to Your Employment Rights e-module. The module is featured on the Ministry of Education’s website: School Leavers’ Toolkit: My rights and responsibilities at work – School Leavers’ Toolkit (education.govt.nz) The Student Job search website: SJS - Employment relations. The “Young Workers Employee Rights and Protections” leaflet, distributed throughout New Zealand MBE’s social media (eg Facebook) and call centre activity Ongoing stakeholder engagement work, including with youth-focused organisations Exhibits at regional career expo events targeting students, parents and teachers. NZCTU Comment: No comment. BusinessNZ Comment: BusinessNZ would note that New Zealand employers do not condone the worst forms of child labour or, indeed, any work that it is not appropriate for young people to perform (see the government’s reference to the Gloriavale case.) It would add to the list of government initiatives the Apprenticeship Boost, a payment made directly to employers allowing apprentices to keep on earning while engaged in training. The payment helps employers take on new apprentices and is available until the end of 2023.</p>
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Promotional activities

26. Have efforts been made to promote the effective abolition of child labour in your country?	Yes
27. If yes, please specify:	d) Awareness-raising

Special initiatives-Progress

28. Have any initiatives resulted in successful examples or good practice in promoting the effective abolition of child labour?	Yes
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28.1. Please specify

Yes. New Zealand's 2021 Article 22 report on Protocol 29 to the Forced Labour Convention noted the commencement of a series of prevention, protection and enforcement initiatives as part of the Plan of Action Against Forced Labour, People Trafficking and Slavery (2020-2025). Several of these provide examples of good practice in promoting the effective abolition of child labour, alongside other forms of labour exploitation. These include increased awareness raising and training for responsible agencies, improved policy and operational responses (such as new exploitation reporting tools and increased enforcement capacity), increased regional cooperation with Asia-Pacific neighbour states, the continued training (within NZ Police and Oranga Tamariki/Ministry for Children) of Specialist Child Interviewers, improved information sharing with victims of exploitation, and research to better understand where actions and measures are best targeted to tackle and reduce this kind of offending. More information about the Plan of Action can be found online:

<https://www.mbie.govt.nz/business-and-employment/employment-and-skills/plan-of-action-against-forced-labour-people-trafficking-and-slavery/>

CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT

According to the Government / social partners

30. What are the current challenges and difficulties faced in the effective abolition of child labour?

One challenge has been the lack of a single complete and comprehensive source of information on harm experienced by young persons at work. A new Youth and Wellbeing Survey "Whataboutme?" has replaced a previous survey and been developed to collect health and wellbeing data on up to 14,000 young people in secondary schools, alternative education units, and Kura Kaupapa. The survey is to be conducted every three years, and data collected will be used to inform policies, programmes, and services, and measure progress on 15 indicators under New Zealand's Child and Youth Wellbeing Strategy. Data collection for the survey had been delayed till 2021 due to COVID-19. At present, this data is still being compiled and analysed. The Government expects to release it later this year (2022).