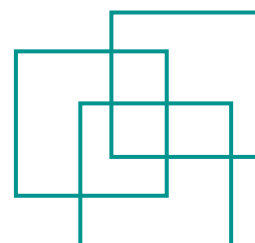




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**TRAINING MANUAL**  
ON CHILD LABOUR  
IN AFGHANISTAN





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**TRAINING MANUAL**  
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## FUNDAMENTALS

*Training manual on child labour in Afghanistan* / International Labour Organization, Fundamental Principles and Rights at Work Branch (FUNDAMENTALS), Geneva: ILO, 2018.

ISBN: 978-92-2-132320-4 (Print); 978-92-2-132321-1 (Web PDF)

International Labour Organization; ILO Fundamental Principles and Rights at Work Branch

Also available in Pashto: *په افغانستان کې د ماشومانو کار په اړه د روزنی لاسبند*, ISBN: 978-92-2-132322-8 (Print); 978-92-2-132323-5 (Web PDF), Geneva, 2018; and Dari: *رهنمود آموزشی پیرامون کار اطفال در افغانستان*, ISBN: 978-92-2-132324-2 (Print); 978-92-2-132325-9 (Web PDF), Geneva, 2018.

## Acknowledgements

This report has been elaborated by Mr. Ahmad Khalid Hatam, and Mr. Peter Matz, Consultants for the ILO.

Consultants would like to thank Mr. Basharat Bashir and Mr. Haris from Ministry of Labor, Social Affairs, Martyrs and Disabled (MOLSAMD) of Afghanistan; Mr. Ghulam Ishaq Hassan from UNICEF; and Mr. Fazal Haq from War Child Canada for their assistance in making completion of this work possible.

Funding for this publication is provided by the United States Department of Labor (USDOL) under cooperative agreement number IL-24943-13-75-K of the Project "Country Level Engagement and Assistance to Reduce Child Labour (CLEAR)" (GLO/13/22/USA).

This publication does not necessarily reflect the views or policies of the United States Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the United States Government. One hundred per cent of the total cost of the Project GLO/13/22/USA is financed with federal funds, for a total of USD 7,950,000.

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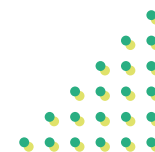
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Only available in electronic format.

Photocomposed by Manuela Flamini, Turin, Italy



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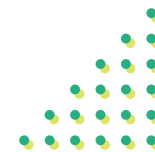
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# Acronyms

<b>ACCI</b>	Afghanistan Chamber of Commerce and Industries
<b>AIHRC</b>	Afghanistan Independent Human Rights Commission
<b>ALP</b>	Afghan Local Police
<b>ANA</b>	Afghan National Army
<b>ANP</b>	Afghan National Police
<b>ANSAs</b>	Armed Non-State Actors
<b>CAAC</b>	UN Secretary General Report on Children and Armed Conflict
<b>CCA</b>	The Comprehensive Child Act 2017
<b>CLEAR</b>	Country Level Engagement and Assistance to Reduce Child Labour (ILO programme)
<b>GoIRA</b>	Government of the Islamic Republic of Afghanistan
<b>HCL</b>	Hazardous child labour
<b>ILO</b>	International Labour Organization
<b>IOM</b>	International Organization for Migration
<b>IWPR</b>	The Institute of War and Peace Reporting
<b>MoE</b>	Ministry of Education
<b>MoLSA</b>	Ministry of Labour, Social Affairs, Martyrs and Disables
<b>MoPH</b>	Ministry of Public Health
<b>NUAE</b>	The National Union of Afghan Employees
<b>SDGs</b>	Sustainable Development Goals
<b>TIP</b>	Trafficking in Persons
<b>UN</b>	United Nations Organization
<b>UNAMA</b>	United Nations Assistance Mission for Afghanistan
<b>UNCRC</b>	United Nations' Convention on the Rights of the Child 1989
<b>UNESCO</b>	United National Educational, Scientific, and Cultural Organization
<b>UNICEF</b>	United Nation's Children Fund
<b>UNOCHA</b>	The United Nations Office for Coordination of Humanitarian Affairs
<b>US DOL</b>	United States of America, Department of Labor
<b>USDOS</b>	United State of America, Department of State
<b>WFCL</b>	Worst Forms of Child Labour
<b>WHO</b>	World Health Organization



# Introduction

This Training Manual on Child Labour in Afghanistan aims to equip trainees with the knowledge and skills to combat all forms of child labour, including its worst forms in Afghanistan. This Manual is expected to enable the stakeholders, such as the government, social partners, UN organizations, NGOs, private sector and civil society organizations to have uniform knowledge and the skills needed to better address the problem of child labour through a multi-sectoral approach, and thus help the children of Afghanistan.

## Objectives of the Training Manual

This Manual has been designed and developed to assist stakeholders in:

- Understanding overall child labour issues, the nature and dynamics of child labour/forced labour in Afghanistan;
- Increasing their knowledge regarding the causes and consequences of child labour and the impact on the health and well-being of the children, their families and respective societies, as well as on the country's overall socio-economic development;
- Understanding the existing legal and regulatory framework and policies that address child labour issues in Afghanistan;
- Identifying the gaps in the Afghan legal and regulatory system by evaluating the rights of children enshrined in the international human rights and labour related instruments vis-à-vis the Afghan laws;
- Acquiring essential information on the means and methods of eliminating the worst forms of child labour; and
- Acquiring the requisite skills for strategic thinking and ability to plan in their fight against child labour.



# CHAPTER 1



## Child labour: a serious violation of child rights



### TOPICS

1. Meaning of the child and the notion of child rights
2. Key definitions for understanding child labour



### GOALS

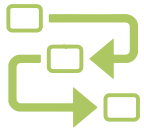
1. Understanding the notion of child rights and how it is undermined by child labour, worst forms of child labour (WFCL), and children's work in general
2. Appreciating the distinction between different notions related to child labour
3. Identifying the ILO Conventions related to child labour and the UNCRC



### OBJECTIVES

By the end of this chapter, the participants will be able to:

- Recognize that children do have rights and that they are inalienable.
- Define child labour and distinguish it from other concepts related to child work.
- Define WFCL, child trafficking, hazardous child labour (HCL) and elements of each one of them.
- Identify the ILO Conventions and UNCRC's relevance to child labour.



## METHODOLOGY

Brainstorming/Group exercises/Presentation



## TOTAL TIME REQUIRED

2 hours



## MATERIAL REQUIRED

- Clock
- Flipcharts
- White board & duster
- Marker pens
- Scissors
- Masking tape
- Laptop/Projector and Screen



Is child labour a problem? Brainstorming (45 Minutes)



## NOTE FOR FACILITATOR:

**Step 1:** Ask the participants to explain if child labour is a problem and an issue that undermines child rights.

**Step 2:** Categorize the responses and create groups on the basis of responses provided by each participant. Ask them to work in one of the groups, which should not be more than six persons, and provide reasons for their opinion.

**Step 3:** Ask one person from each group to write down the group's position and reasons on a flipchart paper and at the end of the time specified for this activity, come to the front and read their arguments.

**Step 4:** The Facilitator then presents the facts and figures of child labour in the world, especially in Afghanistan and asks the participants to reflect on these numbers and the nature of work these children have to perform.

Keep the flipchart papers in the paper-holder so that they will read their responses at the end of the training and see if there is any change in their point of view.

## 1.1 Introduction

The statistics reported by the ILO in 2017<sup>1</sup> are both disquieting and reassuring at the same time: disquieting, as there are still 152 million children engaged in child labour worldwide with almost half involved in the WFCL, and reassuring because there has been a substantial decline in child labour over the years. More specifically, the Report suggests that the period from 2000 to 2016 saw a worldwide reduction of 94 million children in child labour and 134 million in hazardous work.

Despite these efforts, there is still a long way to go. As many as 64 million girls and 88 million boys aged 5 to 17 are still engaged in child labour and they account for almost one in ten of all children worldwide. According to ILO estimates, some 22,000 children are killed every year.

Needless to say that any effort to diagnose and remedy the menace of child labour requires identifying who qualifies as a "child"; setting parameters designed to assist in differentiating between cases of child work, child labour and the WFCL; devising a strategy for combating child labour and WFCL, and a common, if not unanimous, understanding on the rights of child and the threats that child labour and WFCL pose to the human community across the globe. This Manual is designed as a step toward the realization of these goals.

In this chapter, we will have a glance at the definition of the child in the Afghan legal system and compare it with the definition provided by the UN Convention on the Rights of the Child (UNCRC), 1989. Also, we will ponder on key definitions of terms that are frequently used in the literature on child labour and try to identify the elements which play a vital role in deciding if an activity qualifies as child labour or otherwise.

### FACTS AND FIGURES

- Worldwide 218 million children between the ages of 5 and 17 years are in employment. Among them, 152 million are victims of child labour; almost half of them, 73 million, work in hazardous child labour.
- In absolute terms, almost half of child labour (72.1 million) is to be found in Africa; 62.1 million in the Asia and the Pacific; 10.7 million in the Americas; 1.2 million in the Arab States and 5.5 million in Europe and Central Asia.
- In terms of prevalence, one in five children in Africa (19.6 per cent) are involved in child labour, whilst prevalence in other regions is between 3 and 7 per cent: 2.9 per cent in the Arab States (one in 35 children); 4.1 per cent in Europe and Central Asia (one in 25); 5.3 per cent in the Americas (one in 19) and 7.4 per cent in Asia and the Pacific region (one in 14).
- Almost half of all 73 million children victims of child labour are aged 5-11 years. 42 million (28 per cent) are 12-14 years old; and 37 million (24 per cent) are 15-17 years old.
- Hazardous child labour is most prevalent among the 15-17 age group. Nevertheless, up to a fourth of all hazardous child labour (19 million) is performed by children who are less than 12 years old.

1 ILO, 2017b.

- Among 152 million children in child labour, 88 million are boys and 64 million are girls.
- Boys make up 58 per cent of all children involved in child labour and 62 per cent of all children in hazardous work. Boys appear to face a greater risk of child labour than girls, but this may also reflect the under-reporting of girls' work, particularly in domestic child labour.
- Child labour is concentrated primarily in agriculture (71 per cent), which includes fishing, forestry, livestock herding and aquaculture, and comprises both subsistence and commercial farming; 17 per cent in services; and 12 per cent in the industrial sector, including mining.<sup>2</sup>

## Definition of a “child” in Afghan Law: Group exercise

 30 minutes

 **Note for Facilitator:**

**Step 1:** Ask participants to work in small groups of 4-6 persons. Each group discusses and agrees on the definition of child in the context of Afghan Law.

A leader from each group is invited to write his/her group's definition on the flipchart paper for further discussion.

**Step 2:** All group definitions are collected and placed on a section of the wall so that everyone can see them.

The Facilitator then discusses each one of the definitions and assists the participants in understanding the difference, finally reaching the definition provided by Afghan Law.



## 1.2 Who is a child?

As mentioned above, the first task in combating child labour is to identify child labour and explain the elements and factors that contribute to making child labour one of the serious violations of the rights of the child. We therefore commence our discussion with an exercise: Who is a child?

### 1.2.1 Definition of a child in Afghan law

The definition of child as it is enshrined in different Afghan laws reflects the mixed nature of the legal system itself. It is commonly perceived that the Afghan legal system follows the civil law system. However, a closer look at the contents of the law and the legal system reveals that it is a mixture of civil law, Islamic law, customary norms and common law and hence an instance of legal pluralism.

.....  
 2 From ILO child labour webpage, section *Facts and Figures*. Available at: <http://www.ilo.org/global/topics/child-labour/lang--en/index.htm#a2>.



## The Child in Afghan Law

### The Criminal Code of Afghanistan, 1976

Article 70: Minor refers to a child between the ages of 7 and 13 years.

Article 71: Teenage refers to a person who has completed 13 years of age and has not completed 18 years of age.

Article 72: Penal claims cannot be filed against a child who has not completed 7 years of age.

### The Civil Code of Afghanistan, 1977

Article 70: Capacity to marry shall be complete when males attain 18 and females 16 years.

Article 71: Marriage contract of a girl who has not attained the age mentioned in Article (70) of this Law may only be concluded by her competent father or competent court.

1. Marriage contract of minor girls under 15 years old are not permissible by any means.

### The Law on Prosecuting Wrongs Committed by Children, 2005

Article 4:

1. Child: A person who has not completed the age of 18
2. Non-discerning child: A person who has not completed the age of 7
3. Discerning child: A person who has completed the age of 7 and has not completed the age of 12
4. Juvenile: A person who has completed the age of 12 and has not completed the age of 18.
5. Article 5(1): A person who has not completed the age of 12 cannot be held criminally liable.

### The Penal Code of Afghanistan, 2017

Article 93: Child is a person who has not completed 18 years of age.



A similar criterion has been adopted by the Comprehensive Child Act 2017 (CCA) presented to the Afghan Parliament for adoption with a view to defining a child and its categories. The CCA defines a child as any person who has not completed the age of 18 but "undiscerning child" is defined as someone who has not completed the age of 7, while a "discerning child" is a person who has completed the age of 7 but has not completed the age of 12. The CCA however ignores categorizing those who are between 12 and 18 years of age.

A common perception regarding the age of men and women set by the Afghan Civil Code is that the criterion of 18 and 16 years for males and females respectively has been laid down according to Islamic Law. However, this Law does not ascertain minority and majority according to age but according to whether or not the age of puberty has been attained; and 18 and 16 years being the age when males and females usually attain puberty. However, this contention is not necessarily accurate for both males and females as puberty can be attained as early as 14 or 15 years of age in which case the Civil Code as well as the Criminal Code and Penal Code will be in contravention of the dictates of Islamic Law.

Also, it is important to clarify that "permission" to enter into marriage after attaining puberty should not be deemed to be an "obligation" to enter into marriage at such a tender age and hence, the State, as 'guardian' of the people, must intervene by prohibiting everything that poses physical, psychological, and mental harm to its 'wards', especially children and other vulnerable groups. This includes child labour and child marriages equally, due to the adverse effects both have on a child's health and well-being.

This indicates that different laws provide for different minimum age limits due to the purposes and goals that they tend to achieve. As child labour remains a global phenomenon and Afghanistan is a member of this global community, we need to have a look at the definition of the child at the international level and more specifically, who qualifies as a child in relation to child labour. A similar criterion has been adopted by the Comprehensive Child Act 2017 (CCA) presented to the Afghan Parliament for adoption with a view to defining a child and its categories. The CCA defines a child as any person who has not completed the age of 18 but "undiscerning child" is defined as someone who has not completed the age of 7, while a "discerning child" is a person who has completed the age of 7 but has not completed the age of 12. The CCA however ignores categorizing those who are between 12 and 18 years of age.

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## 1.2.2 International definition of a child

### International definition of a "child"

#### UNCRC, 1990

Article 01: Every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

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

The term child shall apply to all persons under the age of eighteen.



## 1.3 Do children have rights?

### Rights of the child: Plenary exercise

 30 minutes

#### Note for Facilitator:

**Step 1:** Ask the participants to respond to the question: Do children have rights? The answers are noted on the flipchart paper and the participants are encouraged to present their arguments in a coherent manner so that everyone presents their views openly.

**Step 2:** Summarize the answers and help the participants understand the nature of the rights of the child from the perspective of both Afghan and International Law.



Some people may claim that children do not have any rights as they do not have the capacity to enjoy rights or to determine what is good and bad; instead, they depend on their parents, social workers, fosterers, teachers, and other elders for all their needs and actions.

An important point in this discussion is that it is not a matter of contention that children as minors may not always have the autonomy to make decisions on their own for themselves and hence, those with parental or quasi parental authority, such as social workers, teachers and those fostering the children are vested with the authority to decide for the children. Nevertheless, children are neither the property of their parents nor are they helpless objects of charity. They are human beings and are the subject of their own rights.

### 1.3.1 Children rights are human rights

The fact that human rights belong to all human beings on the basis of their humanity alone without any discrimination on the basis of race, religion, colour, nationality, language, cast, creed, ethnic or social origin, political opinions or any other ground is sufficient to defuse the contention mentioned above. Also, human rights by their universal character apply to all age groups, and therefore children enjoy the same general human rights as adults do.

Children's rights are simply the human rights of children with a particular focus on the rights to special protection and care afforded to them due to their vulnerability and inability to defend themselves. That is indeed the reason why the international community, in 1989, affirmed that children have human rights and resolved that children needed a special convention just for them. The result was the adoption of the

UNCRC as the first legally binding international instrument to incorporate a full package of human rights encompassing civil, political, economic, cultural and social rights for children.

### 1.3.2 The UN Convention on the Rights of the Child, 1989

The UN adopted the CRC in 1989 which entered into force in 1990. The UN Educational Guides for Children classify the rights enshrined in the UNCRC as the "3 Ps" which denote the following:

- a. **Provision:** children have the right to an adequate standard of living, health, care, education and services and to rest, leisure, and recreation.
- b. **Protection:** children must be protected from abuse, neglect, exploitation of any form and discrimination on any ground. These include, *inter alia*, the evolving capacities of children.
- c. **Participation:** children have the right to participate in communities and have programmes and services for themselves. Hence, when children have a chance to study civic duties and responsibilities, they can participate in analyzing the major issues affecting them; they must be involved in libraries and community programmes, and youth voice activities.

#### Key principles of the UNCRC

The UNCRC is based on three key principles that are the underlying themes throughout the Convention:

1. **Best interests (Article 3):** The Article outlines the obligation to consider the best interests of children, especially in certain situations such as separation, child labour, etc. The Article emphasizes that all actions taken by governments and other associations must take into account the best interests of the child, in order to ensure that they are the primary focus and have a positive influence on a child's development.
2. **Non-discrimination (Article 2):** The Article relates to the recognition that measures of protection must be taken to remove all types of discrimination. Children have a right to be treated fairly, whatever their situation or circumstance.
3. **Participation (Article 12):** All children have the right to take an active role in their community, to be members of a group, to freely express their opinions and to have a voice in matters affecting their own lives.
4. This should not be confused to mean that children can now tell their parents what to do, instead, what the UNCRC asks of the adults is to listen to the opinions of children and involve them in decision-making.



Other provisions that highlight the rights of the child and focus on the well-being of children include:

**Article 28:**

- Recognition of the right of the child to education and this requires:
- Making primary education compulsory and available free to all;
- Encouraging the development of different forms of secondary education; including general and vocational education and making them available and accessible to every child;
- Taking appropriate measures such as the introduction of free education and offering financial assistance in case of need; and
- Taking measures to encourage regular attendance at schools and the reduction of drop-out rates.



Furthermore, all appropriate measures should be taken to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

**Article 32(1):**

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.

**Article 33:**

States Parties shall take all appropriate measures to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

**Article 34:**

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse.

**Article 35:**

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

**Article 36:**

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

### 1.3.3 The ILO Minimum Age Convention, 1973 (No. 138)

ILO Convention No. 138 (C138) requires that ratifying countries pursue policies that lead to the elimination of child labour. The Convention prescribes a minimum age for engaging in work which shall not be less than the age of completion of compulsory schooling and "and, in any case, shall not be less than 15 years". This, according to the Convention, will grant the children an opportunity to develop physically and mentally before entering the workforce.

However, the Convention includes flexibility clauses allowing States to determine whether or not certain activities are appropriate for a child, taking into consideration the age of the child, as well as the national or local socio-economic development context. Therefore, a developing country may initially specify a minimum age of 14 years.

The minimum age for hazardous work has to be at least 18 years, while governments may allow children to carry out light work from 13 years of age onwards; or 12 years if the general minimum age is set at 14 years.

**Table 1: Minimum age for entry into employment in accordance with Convention No. 138**

GENERAL MINIMUM AGE	MINIMUM AGE FOR LIGHT WORK	MINIMUM AGE FOR HAZARDOUS WORK
In normal circumstances: <b>15 years or older</b> <i>no younger than compulsory school age</i>	<b>13 years</b>	18 years <i>16 years under certain strict conditions</i>
Where the economy and educational facilities are insufficiently developed, countries can temporarily set the minimum age at <b>14 years</b>	<b>12 years</b>	18 years <i>16 years under certain strict conditions</i>

### 1.3.4 The ILO Worst Forms of Child Labour Convention, 1999 (No. 182)

ILO Convention No. 182 was adopted in 1999 (C182) to prohibit the WFCL, defined as all forms of slavery and slavery-like practices, such as child trafficking, debt bondage, and forced labour, including forced recruitment of children into armed conflict. It also prohibits the use of a child for prostitution or the production of pornography, child labour in illicit activities such as drug production and trafficking; and in hazardous work.

As serious harm is inherent in the nature of the activities outlined in the first three clauses of the Article, children below 18 years of age cannot be admitted to these forms of work in any manner whatsoever. However, the last category, i.e. hazardous work, is a relative term, and therefore it might be possible in some cases to eliminate the factor of hazard and allow a child to continue working, provided that the conditions set by Convention No. 138 are observed. Governments, in consultation with employers' and workers' organizations determine what constitutes hazardous child labour at the national level, as MoLSA has done.

To explain the relationship between Convention No. 138 and Convention No. 182 it suffices to hold that while the former defines categories of ages of children and stipulates the permissible age for work, the latter lays down the restrictions for the employment of children in certain sectors by outlawing work in conditions that are either unacceptable or are deemed hazardous for children.

## 1.4 Key definitions and concepts

### Key definitions: Group exercise

 20 minutes

#### Note for Facilitator:

**Step 1:** Ask the participants to work in small groups of 4-6 persons. Each group is given a topic and is asked to define and write in bullet points the characteristics of that topic. For instance, one group is assigned the topic of child labour and is asked to explain what child labour is and what its characteristics are?

**Step 2:** A leader from each group is invited to present their findings to the participants and they are invited to ask questions, if any, regarding the findings.

**Step 3:** Invite the participants to go through the presentation/slideshows shared with them and generate a discussion where the difference between child labour, child work, hazardous child labour and WFCL is highlighted and explained in sufficient detail.



In the preceding pages, we had a look at the definition of a child where it was agreed that children are human beings who have not yet attained 18 years of age. We also established that children are entitled to two categories of rights: some of these rights revolve around their granting them empowerment as children, while others emphasize the protection of children against such harm as may jeopardize their ability to have and enjoy a healthy adulthood. We concluded that the "best interests of the child" remain paramount and must be respected when making any decision regarding a child.

In the following pages, an attempt is made to elaborate on certain key concepts in understanding child labour and WFCL as well as to clarify some misconceptions.

### 1.4.1 Child labour

Article 32(1) of the UNCRC proclaims that the "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." Some injuries or ill health may result in permanent disability. Often health problems caused by being involved in child labour may not develop or show up until the child is an adult.

Child labour basically refers to two concepts: work undertaken by children below the legal minimum working age, and the WFCL. As mentioned above, these concepts are defined by the ILO Minimum Age Convention No. 138 (1973) and the ILO Worst Forms of Child Labour Convention No. 182 (1999).

According to the ILO, "child labour" is work that deprives children of their childhood, potential, dignity and which is harmful to their physical and mental development in any manner whatsoever. To refine the criterion above, it will be deemed to refer to any sort of work that:

- is mentally, physically, socially, or morally dangerous and harmful to children; and
- interferes with their schooling by:
  - depriving them of the opportunity to attend school;
  - obliging them to leave school prematurely; or
  - requiring them to attempt to combine school attendance with excessively long and heavy work.<sup>3</sup>

The above criterion indicates that not all work performed by children is deemed child labour. Thus, children who participate in work that does not affect their health and personal development or interfere with their schooling, is not considered child labour. Instead, it may generally be regarded as something positive. In other words, there is a positive and hence a permissible form of work that can be performed by a child.

According to the ILO, child labourers are susceptible to all the dangers faced by adult workers when placed in the same situation and even more. The work hazards and risks that affect adult workers can affect child labourers all the more severely. The lack of safety and health protection measures can often be more devastating and life-changing for children, resulting in a higher number of fatal and non-fatal accidents, permanent disabilities/ill health, and increased psychological/behavioral/emotional damage.<sup>4</sup>

In its most extreme forms, child labour involves children being enslaved, separated from their families, exposed to serious hazards and illnesses and/or left to fend for themselves on the streets of large cities – often at a very early age.

In order to decide whether a particular form of work amounts to "child labour", one needs to consider the age, type of work, hours of work, the conditions under which the work is being performed by the child as well as the objectives pursued by the individual States. It is therefore possible that the answer will vary from country to country and sector to sector within the same country.

## 1.4.2 Worst forms of child labour

Children involved in the WFCL are those found in the categories of child labour set out in Article 3 of ILO Convention No. 182. These categories comprise:

- a. *All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;*
- b. *The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;*
- c. *The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; and*
- d. *Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children.*

.....  
3 ILO, 2013.

4 ILO, 2011b.



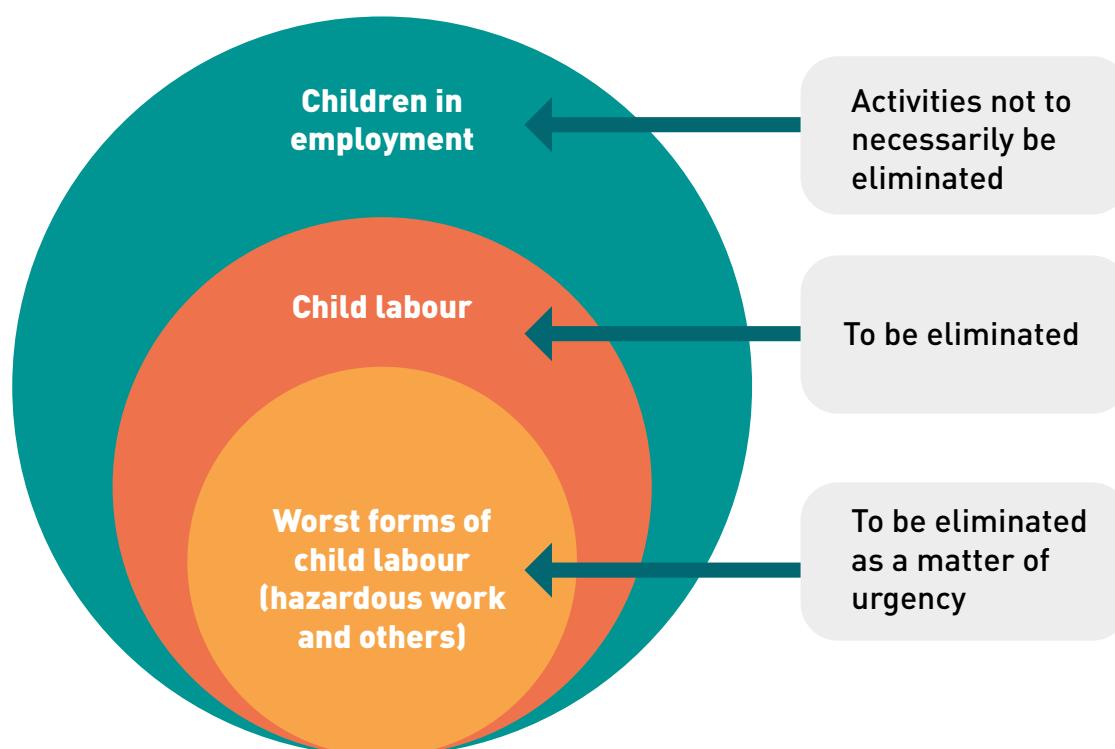
Looking at these four types, the first three categories, according to many people and major international organizations, constitute the worst forms of activities "by definition", also called the "unconditional worst forms", while the fourth category is that of the worst forms of activities "by condition", i.e. hazardous work.

Worst forms "by definition" are often illegal and unacceptable for children and adults alike. They include all those activities whose status as worst forms cannot be altered no matter what is done to improve the conditions of work. No changes that one can imagine, for example, could improve working conditions sufficiently to make the commercial sexual exploitation of children or the use of children in pornography an acceptable occupation for a child.

In contrast, a list of what should be prohibited within the fourth category - hazardous work - needs to be determined at national level and some of these are activities where conditions can be improved, thus the title, worst form "by condition". If they are currently affecting the health and safety of the children who perform them, the situation can, in some cases, be changed by altering the circumstances.

Figure 1 summarizes the relationships between children in employment (including legal work by children above the minimum age for employment), child labour, and the WFCL.

**Figure 1: Children in employment, child labour, and worst forms of child labour**



Source: ILO, 2016.

### 1.4.3 Hazardous child labour

Hazardous child labour (HCL), according to Article 3(d) of ILO Convention No. 182 is that form of work, activity or occupation which "by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children".

More specifically, HCL is work carried out in dangerous or unhealthy conditions that could result in a child being killed, or injured and/or made ill as a consequence of poor safety and health standards and working arrangements. Some injuries or ill health may result in permanent disability. Often health problems caused by being involved in child labour may not develop or show up until the child is an adult.

Alarming, hazardous work by children is often treated as a proxy category for the worst forms of child labour given that children performing hazardous work account for the overwhelming majority of those involved in the WFCL, reports the ILO.<sup>5</sup>

Guidance for governments on some HCL activities which should be prohibited is given by Article 3 of ILO Recommendation No. 190 which provides that:

*In determining the types of work referred to under Article 3(d) of the Convention, and in identifying where they exist, consideration should be given, inter alia, to:*

- a. *Work which exposes children to physical, psychological or sexual abuse;*
- b. *Work underground, under water, at dangerous heights or in confined spaces;*
- c. *Work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;*
- d. *Work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;*
- e. *Work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.*

Hazardous work may include night work, long hours of work, exposure to physical, psychological, or sexual abuse; work underground, under water, at dangerous heights or in confined spaces; work with dangerous machinery, equipment and tools, or work which involves the manual handling or transport of heavy loads; and work in an unhealthy environment which may, for example, expose children to hazardous substances, agents, or processes, or to temperatures, noise levels, or vibrations damaging to their health.

### 1.4.4 Light work

As a matter of principle, children's participation in work and in an economic activity in a manner that does not negatively affect their health and development or interfere with their education is referred to as "light work" and remains permissible. Therefore, such work is permitted from the age of 12 years under ILO Convention No. 138 (in countries that have specified the general minimum working age as 14 years).

Examples of work that qualify under the criterion laid down above for light work are provided in Paragraph 2 of the Minimum Age (Non-Industrial Employment) Recommendation, 1932 (No. 41). These include: running errands, distribution of newspapers, odd jobs in connection with the practice of sports or the playing of games, and picking and selling flowers or fruits. For the admission of children to light work, in accordance with the Recommendation, the consent of parents or guardians, a medical certificate of physical fitness

.....  
5 ILO, 2010.

and, where necessary, previous consultation with the school authorities are required. The hours of work should be adapted to the school timetable and the age of the child.

### 1.4.5 Child abuse

It is important to clarify at the outset that child abuse itself is not a form of child labour, even though some child labour may involve child abuse. Hence it is imperative to understand this term and reflect on how child labour may involve the types of abuse detailed below.

The World Health Organization (WHO) defines the term "child abuse" or "maltreatment" as "all forms of physical and/emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power".<sup>6</sup>

This definition covers almost all aspects of the abuse that a child may be exposed to and in fact points to four types of "cruelty" against children:

- **Physical abuse:** including hurting or injuring a child, inflicting pain, poisoning, drowning, or smothering;
- **Sexual abuse:** which includes direct or indirect sexual exploitation or corruption of children by involving them (or threatening to involve them) in inappropriate sexual activities;
- **Emotional abuse:** repeatedly rejecting children, humiliating them or denying their worth and rights as human beings amount to this form of abuse; and
- **Neglect:** refers to persistent lack of appropriate care of children, including love, stimulation, safety, nourishment, warmth, education, and medical attention.<sup>7</sup>

### 1.4.6 Trafficking in children

The ILO Convention No. 182 (1999) on the WFCL classifies trafficking among "forms of slavery or practices similar to slavery" and thereby a WFCL to be eliminated as a matter of urgency, irrespective of the country's level of development.

Trafficking in children is the illegal trading (buying, selling and movement) of children for labour or sexual exploitation. Similarly, the ILO considers child trafficking as taking children out of their protective environment and preying on their vulnerability for the purpose of exploitation.<sup>8</sup> It can take many different forms but usually involves dirty, dangerous work for little or no pay, with inadequate rest time, no safety nets such as health insurance or social assistance, and often with a degree of force or violence.

According to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2000 (the Palermo Protocol), the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is considered child trafficking. Globally, children are trafficked for many reasons, including forced labour, prostitution and recruitment as child soldiers and beggars.

Trafficking in children is often interlinked with the demand for submissive yet cheap labour in sectors and among employers where the working conditions and the treatment grossly violate the children's rights. The ILO explains that such conditions are characterized by environments that are unacceptable

6 WHO, 1999.

7 WHO, 2002.

8 From ILO website, section *Trafficking in Children*. Available at: <http://www.ilo.org/ipecc/areas/Traffickingofchildren/lang--en/index.htm>.

(the unconditional worst forms) as well as dangerous to the health and the development of the child (hazardous worst forms).<sup>9</sup>

This includes: bonded labour which refers to the working of children or adults in conditions of servitude to pay off a debt, camel jockeying, child domestic labour, commercial sexual exploitation and prostitution, drug couriering, child soldiering or exploitative or slavery-like practices in the informal industrial sector.

### 1.4.7 Commercial sexual exploitation of children

Sexual exploitation, though not an instance of child labour in itself, may be considered as such if a child is used for generating income also known as commercial sexual exploitation of children. Put simply, it is the exploitation by an adult of a child or an adolescent – under 18 years of age –; accompanied by a payment in money or in kind to the child or the adolescent or to one or more third parties.<sup>10</sup>

The ILO considers commercial sexual exploitation of children an abhorrent violation of the human rights of children and adolescents and a form of economic exploitation similar to slavery and forced labour, which also implies a crime on the part of those who use girls and boys and adolescents in the sex trade.

Commercial sexual exploitation in children includes all of the following:

- The use of girls and boys in sexual activities remunerated in cash or in kind (commonly known as child prostitution) in the streets or indoors, in such places as brothels, discotheques, massage parlours, bars, hotels, restaurants, etc.
- The trafficking of girls and boys and adolescents for the sex trade.
- Child sex tourism.
- The production, promotion and distribution of pornography involving children.
- The use of children in sex shows (public or private.)

9 Ibid.

10 From ILO website, section *Commercial Sexual Exploitation of Children*. Available at: <http://www.ilo.org/ipec/areas/CSEC/lang-en/index.htm>.

### 1.4.8 Child domestic work

Household chores undertaken by children in their own homes, in reasonable conditions and under the supervision of those close to them are deemed to be an integral part of family life and of growing up, therefore something positive. However, in some cases, there might be concerns surrounding certain situations where these workloads might interfere with the children's education or be excessive, in which case they might be considered child labour.

As such, children performing household chores in their own home, and children in domestic work, i.e. in a third-party household, might perform similar tasks but the difference lies in the fact that in the first case, the employment element is missing, and so referring to those situations as "domestic work" should be avoided.

Domestic work, as per ILO Convention No. 189, means work performed in or for household(s) while domestic worker refers to any person engaged in domestic work within an employment relationship. Child domestic work is a general reference to children's work in the domestic work sector in the home of a third party or employer.

#### Child domestic work

Recommendation No. 201 calls for the identification, prohibition and elimination of hazardous domestic work by children, and for the implementation of mechanisms to monitor the situation of children in domestic work.

Convention No. 189 explicitly states that member States of ILO shall set a minimum age for domestic workers consistent with the provisions of Convention No. 138 and Convention No. 182, and not lower than the minimum age established by national laws and regulations for workers, in general.

According to ILO, the situation of underage child domestic workers or those working in hazardous conditions often go unrecognized as a form of child labour.

On this ground, ILO's Convention No.182 dealing with WFCL continues to play a critical role in drawing attention to the situation and provoking national action.

Convention No.182 calls on member States to take measures to ensure that work performed by domestic workers under the age of 18 and above the minimum age of employment does not deprive them of compulsory education, or interfere with opportunities to participate in further education or vocational training.



## 1.4.9 Street children

In its general use, the term 'street children' refers to children involved in child labour and who spend their time on the streets. Nevertheless, according to the Consortium for Street Children, the term 'street children' is not specifically defined. Sociologists and anthropologists recognize this to be a socially constructed category which does not form a clearly defined, homogeneous population or phenomenon. The earliest definitions and categories of street children include the following:

- Children 'of the street' (street-living children), who sleep in public spaces, without their families;
- Children 'on the street' (street-working children), who work on the streets during the day and return to their family home to sleep; and
- 'Street-family children' who live with their family on the streets. However, there is overlap between these categories, because some children live on the streets but sleep at their homes, some retain strong relationship with families while others do not.

Many experts argue that the term 'street children' is problematic, as it can be used as a stigmatizing label; one of the greatest problems such children face is their demonization by mainstream society who sees them as a threat and a source of criminal behaviour.<sup>11</sup> Instead, the term 'street-connected children' is now more widely used.

## 1.4.10 Use and recruitment of children

Child soldiers or children who fight for whatever reason or provide various forms of support in conflicts are among the victims of WFCL. Many children involved in armed conflict face not only the dangers of combat, but also suffer physical abuse or rape at the hands of their fellow combatants. ILO Convention No. 182 declares forced or compulsory recruitment of children for use in armed conflict as representing a WFCL, and the Optional Protocol to the UNCRC on the involvement of children in Armed Conflict prohibits all recruitment irrespective of its nature, i.e. voluntary or compulsory, of children below 18 years of age by armed forces or armed non-state actors (ANSAs).<sup>12</sup>

It is also important to highlight that the use and recruitment of children is counted as one of the six grave violations of child rights according to UN Security Council Resolution 1612. The other five are killing and maiming, sexual violence against children, attacks on schools, hospitals and protected personnel, abduction of children, and denial of access to humanitarian assistance.

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11 UNICEF, 2006.

12 ILO, 2003. See also: ILO website, section *Child Labour and Armed Conflict*. Available at: <http://www.ilo.org/ipecc/areas/Armedconflict/lang--en/index.htm>.

## Is it child labour? Plenary discussion

 30 minutes

 **Note for Facilitator:**



**Read the following scenarios to the participants and ask for their opinion on each one of them (share more scenarios if required):**

1. Ahmad is 13 years old and has not yet completed compulsory education. He has been helping his father on his farm every once in a while, but since he got sick he started working there every day from early morning until late at night. He is unable to attend school and is not sure if he will ever be able to go back to school.
2. Kulsoom is 11 years old and lives with her family that farms for a living. She helps her parents to gather fruits and berries and collect medicinal herbs for one or two hours from time to time. She has understood how to recognize plants and learned their uses. She attends the village school regularly.
3. Hamid is 16 years old and lives with his widowed mother who weaves carpets. Hamid works by helping his mother bring heavy loads of threads, clean them, and works on the loom for long hours. He attends school regularly but is unable to play with friends due to pain in his back and injuries to his fingers.





# CHAPTER 2

## Child labour in Afghanistan



### TOPICS

The situation of child labour in Afghanistan



### GOALS

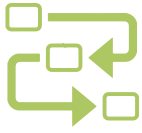
1. Developing knowledge and understanding of the condition of child labour in Afghanistan
2. Identifying the sectors where child labour prevails
3. Understanding the nature of Afghanistan's obligations in regard to the abolition of child labour



### OBJECTIVES

By the end of this chapter, the participants will be able to:

- Identify sectors where child labour subsists.
- Understand and have basic facts and figures about child labour in each sector.
- Identify the international conventions ratified by Afghanistan and the obligations it has accepted by such ratification.



## METHODOLOGY

Group exercises/presentation



## TOTAL TIME REQUIRED

1:30 hours



## MATERIAL REQUIRED

- Clock
- Flipcharts paper
- White board & duster
- Marker pens
- Scissors
- Masking tape
- Laptop/Projector and Screen

## 2.1 Introduction

The 40-year conflict in Afghanistan has affected all aspects of human security in the country. It is therefore constantly striving to cope with its situation as a conflict-stricken nation. A successful outcome however depends on an efficient plan to remedy the problems that lead to the continuation of hostilities. Nonetheless, the prevalent situation suggests that, though insignificant on some fronts, the country has succeeded in finding its way out of turmoil.

In this chapter, we are going to have a look into the problem of child labour in Afghanistan and the efforts made, both legal and regulatory, in combating child labour and WFCL.

### Child labour in Afghanistan: Group exercise

 30 minutes

 **Note for Facilitator:**

**Step 1:** Draw a table on the flipchart paper with two columns. Write “types of work children do” at the top of the first column. Ask participants to offer suggestions. Write these clearly on the flipchart, one under the other. Make sure that work performed by children in urban areas is separated by a sign/symbol from work performed by them in rural areas.

**Step 2:** Write “gender and age range” of child workers. Make groups of equal number of participants and allocate a number of responses from the “Types of work children do” column. Each group discusses who does the work – boys and/or girls – and the approximate age range of the children engaged in that work. One representative from each group then writes their response on the flipchart paper for all to observe and discuss later on.

The list should be kept on the wall for the discussion on consequences for children of the work they undertake in each sector.



## 2.2 The situation of child labour in Afghanistan

Afghanistan became the 60th member of the ILO on 27 September 1934 and has ratified 19 ILO Conventions including five Fundamental Conventions. Amongst them, the conventions related to child labour/forced labour are as follow:

SERIAL NO.	CONVENTION	DATE	STATUS
1	C105 – Abolition of Forced Labour Convention 1951 (No. 105)	16 May 1962	In Force
2	C138 – Minimum Age Convention 1973 (No. 138)	07 Apr 2010	In Force
3	C182 – Worst Forms of Child Labour Convention 1999 (No. 182)	07 Apr 2010	In Force

According to the Afghanistan Human Rights Commission (AIHRC), the situation of children in Afghanistan is of grave concern as a large number of children are subjected to the WFCL, and it is believed that the number of street children, children used for begging, children employed in carpet-weaving, children exploited in activities related to narcotics, and the employment of children in heavy vehicle repair workshops and metal works is on the rise.

The lack of access to quality education is the main reason for an emerging illiterate and non-professional generation that will perpetuate poverty in the future and lead to problems in society. In addition, according to the AIHRC the critical relationship between child labour and, *inter alia*, addiction to narcotics, abduction and trafficking, infraction and delinquency, and infection with HIV/AIDS exists without a doubt. In general, children involved in child labour in Afghanistan encounter severe bodily and mental harm and are stripped of access to quality education.

The problem of child labour is widespread in Afghanistan for a wide range of reasons. For instance, as documented by the AIHRC Report on Children, 2017, where 5,700 children aged between five and 18 were interviewed in 27 provinces of Afghanistan during 2015-2016, child labour is rampant due to poverty, illiteracy, traditional and customary lifestyle.<sup>13</sup>

Moreover, the ILO found that 21 per cent of the population lives in extreme poverty, and 38 per cent faces food shortage. More than 48 per cent of the Afghan population is below 15 years of age,<sup>14</sup> while 2.9 per cent of the population is over 65 years of age.<sup>15</sup> This age composition imposes a high dependency ratio, where the national workforce needs to absorb the burden.

According to the AIHRC Report 2017, of the 5,700 children interviewed, 51 per cent were involved in labour and worked between two and seven hours per week while 1 per cent worked for two to 12 hours in addition to one to two hours during night time.

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13 AIHRC, *Report on Condition of Children in Afghanistan during 2015 and 2016*. Available online at: [http://www.aihrc.org.af/home/research\\_report/6946](http://www.aihrc.org.af/home/research_report/6946) (Last accessed: 12.02.2018).

14 ILO, *the ILO in Afghanistan*. Available online at: [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kabul/documents/publication/wcms\\_241087.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kabul/documents/publication/wcms_241087.pdf) (Last accessed: 12.02.2018).

15 Islamic Republic of Afghanistan, Central Statistics Organization, *Afghanistan Living Conditions Survey 2016-2017*. Available online at: <http://cso.gov.af/Content/files/ALCS/ALCS%20Mid-termresult-Highlights%202016-17.pdf> (Last accessed: 21.02.2018).

The Report adds that 93 per cent of these children did not receive any wages or salary, as this is either paid to their family members, or they are involved in domestic work. This indicates a worsening situation when compared to 2011, when the AIHRC reported that 88.5 per cent of working children did not directly receive any salary.

## 2.3 Hazardous child labour in Afghanistan

Afghanistan has been identified as one of the most difficult countries for children, when it comes to hazardous child labour. As mentioned above, children between the ages of 5 and 14 form a large part of the nation's workforce and are often forced to work in agriculture, carpet weaving, brick kilns, street work, begging, mining, and even participate in armed conflict.

According to reports of the US Department of Labor (US DoL), around 41.8 per cent of Afghan children aged between 5 and 14 years attended schools; 7.5 per cent of them did not attend school; while 4.6 per cent combined school and work. The US DoL has prepared a "List Required by the Trafficking Victims Protection Reauthorization Act of 2005", to indicate which sector of each country is involved in child labour, forced labour or both. As of 30<sup>th</sup> September 2016, the list included four sectors from Afghanistan: bricks, coal, carpets and flowers (poppy).<sup>16</sup>

According to the AIHRC Report mentioned above, 9 per cent of the children working in Afghanistan were exposed to hazardous work, while 50 per cent of them did not even understand if the work they performed was hazardous in nature. As many as 41 per cent of the children believed that their work was not hazardous in nature. Out of 5,700 children interviewed 14 told the AIHRC that they had suffered physically or psychologically due to the work they had to perform.

In the following pages, we will have a look at some facts and figures related to the most widespread forms of child labour in Afghanistan.

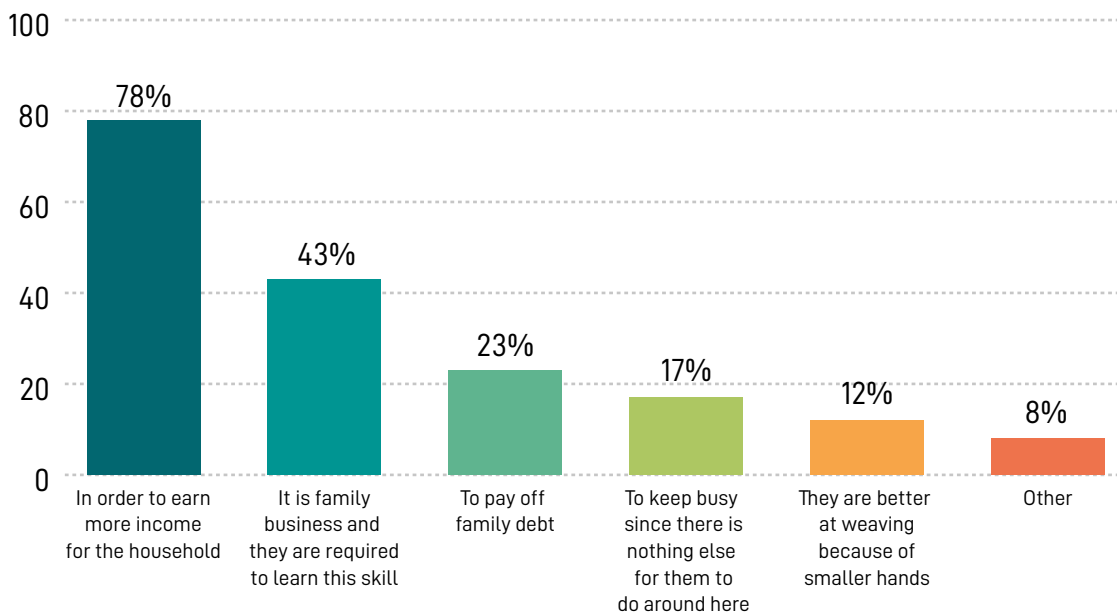
### 2.3.1 Child labour in the carpet industry

Using child labour is very common in the carpet industry of Afghanistan. The reasons for engaging children in carpet weaving could relate either to economic or social considerations. From an economic point of view, prevailing market conditions encourage households to employ their children in carpet weaving, as carpet weavers are not paid a salary or wages and receive very little money for a single carpet. Low-income households are thus obliged to invest significant labour time to produce a carpet; therefore, with high labour intensity but low economic returns putting pressure on household production units to maximize labour potential, households are incentivized to employ children. That way the households ensure that more carpets are produced in a shorter period of time and therefore make more money.<sup>17</sup>

16 US Department of Labor, *List Required by the Trafficking Victims Protection Reauthorization Act of 2005 Updated 30<sup>th</sup> September 2016*. Available online at: <https://www.dol.gov/sites/default/files/documents/ilab/reports/child-labor/findings/TVpra2015-2016Bibliography.pdf> (Last accessed: 14.03.2018). See also; US Department of Labor, *Child Labor and Forced Labor Reports: Afghanistan in 2016*. Available online at: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/afghanistan> (Last accessed: 14.03.2018).

17 Samuel Hall, *Ties that Bind: Child Labor in the Afghan Carpet Sector – July 2014*. Available online at: [http://samuelhall.org/wp-content/uploads/2016/07/GoodWeave\\_Ties-that-Bind\\_FINAL.pdf](http://samuelhall.org/wp-content/uploads/2016/07/GoodWeave_Ties-that-Bind_FINAL.pdf) (Last accessed: 15.04.2018).

**Figure 2: Reasons for engaging children in carpet weaving**



Source: Goodweave and Samuel Hall, June 2014.

It is noteworthy that low wages and poor job opportunities force many households to adopt multiple economic activities to meet their needs. As a result, carpet weaving is often a secondary source of income for producer households. According to a 2014 study, 75 per cent of households were engaged in another economic activity, more specifically in the construction sector as daily paid labourers. A small proportion of households are also involved in spinning wool into yarns/threads (18 per cent), or washing and cutting the carpets (10 per cent) to increase the share of income that they get along with weaving.<sup>18</sup>

From a social point of view, carpet weaving is a home-based and traditional industry and is thus very difficult to detect. Recording violations is equally difficult. It is customary for parents to keep their children by their side during the day and so the children begin carpet weaving as had been done by generations before them. In other words, their work is part of a life-long social and economic cycle. For some families, child labour is simply a continuation of a traditional household activity.

Samuel Hall concludes that unlike other child labour sectors, carpet weaving is neither preventing children from school nor does it increase dropout rates of school.<sup>19</sup> Nonetheless, it does jeopardize the health and well-being of children. Child weavers are supposed to sit in front of the loom with their heads, necks, and arms aligned in awkward postures and this, combined with the repetitive movement of tying knots with non-ergonomic tools, can cause carpal tunnel syndrome, neuralgia, swollen finger joints, eye strain, and premature vision problems according to Human Rights Watch.<sup>20</sup>

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18 Ibid.

19 Ibid.

20 Human Rights Watch, *They Bear All the Pain: Hazardous Child Labor in Afghanistan*, 2016.

### 2.3.2 Child labour in mining

Despite the law in place that prohibits work of children in mines, Afghan children are engaged in mining work across Afghanistan especially in coal mines. These children, due to their vulnerability and lack of experience, routinely endure hot, dusty and dangerous conditions and face various hazards including death.

Children are often the preferred option for working in these mines depending on how small and narrow the tunnels inside of them are. Children have to go inside and work for as long as eight hours daily despite the fact that these mines are dug by locals and smugglers without observing any safety standards.

A young miner in a coal mine of Samangan Province, Rohullah says that "we go inside the mine for 15 minutes, God is protecting us". He was wary of the conditions of mines and said "if the mine collapses, many people will die of the gas inside the tunnel, but we have to go, otherwise, who would do this?"

According to a report by the Institute of War and Peace Reporting (IWPR), Khair Mohammad Akhtarzada, the Deputy Governor of Samangan, told them that more than 1,000 of some 5,000 people working in coal mines were under-age, while Ahmad Ali Hassani, the governor of *Dara-e Suf Bala* reported that "there are limited numbers of employees from the ministry of mines to regulate them. So, if workers are killed in the mines, the owner asks the family to stay silent and not inform anyone officially by paying them some money".

### 2.3.3 Child labour in brick kilns

"There are children here, starting from 10 years or 8 years of age to 15 or 16... They wake up at 3 in the morning and work until about evening... They're so poor; they can't do anything else, so they work in the brick kilns of Jalalabad [and Kabul]. All their lives, they're out like that, working at the kilns...One who starts brick making doesn't do anything else".<sup>21</sup> This statement of Sher Khan, a kiln manager in Kabul, reveals the entire life-story of children working in the brick kilns of Afghanistan.

Khan has not only exposed child labour in the brick kilns, he has uncovered the phenomenon of bonded labour therein which is rare in Afghanistan. The worker is retained as collateral and tied to the work until the debt is repaid, often extending the bondage for generations. This happens despite the fact that the Afghan Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSA)'s list of hazardous work 2014, reproduced below, mentions "working with brick oven tools" as hazardous and therefore prohibited for children.

In a study conducted for ILO, Samuel Hall claims that children represent a majority of the brick-making workforce in Afghan kilns.<sup>22</sup> According to Human Rights Watch, children as young as 5 years commonly work in brick kilns.<sup>23</sup> It needs no explanation that the work in brick kilns is painfully exhausting and the hours are long as they extend 10 to 15 hours a day. The working environment is extremely unhealthy as these children work typically with no shelter and in direct exposure to the sun and dust. Younger children help with clearing the fields of rubble, arranging the dried-out bricks in stacks, fetching water to make clay, and bringing sand to lay under the bricks.

21 Ibid.

22 ILO, *Buried in Bricks: A Rapid Assessment of Bonded Labour in Brick Kilns in Afghanistan*. Available online at: [http://stopbornear-bejde.dk/sites/default/files/wcms\\_172671.pdf](http://stopbornear-bejde.dk/sites/default/files/wcms_172671.pdf) (Last accessed: 18.04.2018).

23 Human Rights Watch, op. cit.

### 2.3.4 Child labour in metal and mechanical work

Another prevalent form of child labour in Afghanistan is the performance of various tasks at metal and mechanical workshops. Children are engaged as apprentices, making items such as gates, doors, water tankers, and windows, or changing brake and gear oil, handing over tools to the mechanic, tuning and other minor activities.

They are hired at a tender age to "offer" them an opportunity to observe how the mechanic, normally referred to as "*ustaad*" or master, performs different tasks so that they can become perfect masters themselves. An ILO study found that more than 60 per cent of the child metal workers in Kabul started work between 5 and 11 years of age.<sup>24</sup>

These children are exposed to multiple dangers including severe burns, cuts and vision problems, high noise levels, long working hours, heavy loads, and unsafe equipment. The ILO study highlights that 80 per cent of children employed in metal workshops handled "dangerous machinery and fire," with 20 per cent engaged in supporting roles such as cleaning and other services.<sup>25</sup>

In the metal industry, the work that children perform involves cutting sheets of metal, welding, lifting heavy items, and using dangerous items such as hammers, anvils, chisels, and blowtorches. Human Rights Watch found that children cut metal sheets using sharp metal cutters designed for adult hands, weld metal parts together, and carry and stack metal gates and window frames which qualify as hazardous work banned by the MoLSA in 2014.<sup>26</sup>

Even very young children are exposed to various risks of bodily injury, including general workplace hazards such as falling objects, extreme seasonal heat and cold, and direct sun exposure because much of the work takes place outside or in workshops with no heating. Other risks include unprotected welding, which may result in severe burns and vision problems.

### 2.3.5 Street children, shoe shining and begging

Young boys and girls as young as 5 to 6 years are seen in Afghanistan working on the streets as street vendors, polishing shoes, begging, or cleaning car windows at the traffic signals. Some of them collect paper, scrap metal and other items that they can eat or sell and get an income.

The IWPR reports on the authority of UNICEF that, as of 2015, 60,000 children were working on the streets of Kabul alone.<sup>27</sup> When asked about the reason they had chosen this path, their response includes limited family income, lost parents, orphanage, or that their parents encourage them to work or beg.

According to the 2008 Child Protection Network Study of Street Working Children in Mazar-e-Sharif, 40 per cent of the children working in the streets were not attending school, sustained injuries and were victims of frequent violence and abuse. The study also found that these children, most of whom were boys, worked for long hours.

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24 ILO-IPEC, *A Rapid Assessment on Child Labour in Kabul*, 2008, as in, HRW, *They Bear All the Pain*.

25 Ibid.

26 Human Rights Watch, op. cit.

27 Nabila Haidari, *Afghanistan's Working Children*. Available online at: <https://iwpr.net/global-voices/afghanistans-working-children> (Last accessed: 12.04.2018).



### 2.3.6 Use and recruitment of children by government forces and militant groups

The problem of recruiting children under the age of 18 years was common prior to 2010 when the Afghan National Police (ANP) was listed in the Annexes of the UN Secretary General Report on Children and Armed Conflict (CAAC) for its use and recruitment of children in its ranks but has been on a decline since then. However, in 2012, the Afghan Local Police (ALP) was also added to the list.

Afghanistan signed in 1994 the Optional Protocol to the UNCRC dealing with children in armed conflict which sets 18 as the minimum age for direct participation in the armed forces. However, in 2003, a Presidential Decree prohibited the recruitment in ANA of males below the age of 22, but the government changed the recruitment age to 18 years in 2006.

In addition to the AIHRC, the UN verified the continued use of children in combat and non-combat roles by the Government in 2016, including five cases of recruitment by the ANP, two by the ALP and one by the Afghan National Army (ANA), at times using fake identity documents. Low birth registration and falsified identity documents contribute to the problem because it makes the determination of a recruit's age difficult.<sup>28</sup>

### 2.3.7 Sexual exploitation

Commercial sexual exploitation of children mainly due to their poverty is a widespread phenomenon across Afghanistan and could rightly be termed as the National Shame of Afghanistan. The phenomenon of "*Bacha Bazi*" where boys often wearing female clothes are trained to dance and entertain men is extensive. They often carry out sexual acts as well or are forced to do so.

According to the AIHRC Report 2014, the practice of *bacha bazi* (pederasty), in which men, including warlords, police commanders, influential tribal leaders, and mafia heads, force boys usually below 18 years of age, to provide social and sexual entertainment, is prevalent in all provinces of the country. In many cases, these boys are dressed in female clothing, used as dancers at parties and ceremonies, and sexually exploited.

The US DoL has referred to specific cases of *bacha bazi* from the provinces of Baghlan, Balkh, Faryab, Kunduz, Helmand, Takhar, and Uruzgan.<sup>29</sup> Hagar International reveals that the most at risk area of the country is northeastern Afghanistan, which includes Badakhshan, Takhar, Baghlan, Kunduz and Balkh provinces.<sup>30</sup> The AIHRC found that most boys exploited in the case of pederasty were between the ages of 13 and 16, and that 60 per cent of them had also been subjected to physical violence, confinement, and threats of death.

The US DoL Report adds that some government officials, including members of the ANP, the ALP, and the Afghan Border Police, exploit boys for *bacha bazi* as well as to work as tea servers or cooks in police camps.<sup>31</sup> Some local police commanders abduct boys and use them for *bacha bazi*. One source has indi-

28 US Department of Labor, *Child Labor and Forced Labor Reports: Afghanistan in 2016*. Available online at: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/afghanistan> (Last accessed: 27.02.2018). See also: US Department of State, *Diplomacy in Action: 2017 Trafficking in Persons Report: Country Narratives: Afghanistan*. Available online at: <https://www.state.gov/jtip/rls/tiprpt/countries/2017/271129.htm> (Last accessed: 27.02.2018).

29 Ibid.

30 Hagar International, *Forgotten No More*, 2013. Available online at: <http://hagarinternational.org/international/files/2014-Forgotten-No-More-Media-Kit.pdf> (Last accessed: 27.02.2018).

31 US Department of Labor, *Child Labor and Forced Labor Reports: Afghanistan in 2015*. Available online at: [https://www.dol.gov/sites/default/files/images/ilab/child-labor/Afghanistan\\_0.pdf](https://www.dol.gov/sites/default/files/images/ilab/child-labor/Afghanistan_0.pdf) (Last accessed: 27.02.2018).

cated, as per the US DoL report, that *bacha bazi* proved to be the biggest weakness of the ANP and other police forces.<sup>32</sup>

This situation and the Taliban's use of boys engaged in *bacha bazi* to target policemen who had victimized them convinced the Ministry of Interior to issue standing orders asking police to stop arranging parties in which boys are dressed as girls and forced to perform dances or other sexual favors.<sup>33</sup>

In 2015, the President of Afghanistan ordered the creation of a committee to prevent and prosecute government officials involved in the commercial sexual exploitation of boys. According to the US DoL Report, the Police Chief of Balkh province has courageously asserted that some local officials supported and defended suspects of committing *bacha bazi*.<sup>34</sup>

### 2.3.8 Child labour in agriculture

Globally, the agricultural sector accounts for by far the largest share of child labour, accounting for 71 per cent of all child labour which, in absolute terms, amounts to 108 million children worldwide.

Children in Afghanistan are no exception. They are exploited and made to work in agriculture which commonly exposes them to harmful pesticides, dangerous machinery and tools and carrying heavy loads. According to the US DoL, there are reports of children being involved in the cultivation of poppies for opium production.<sup>35</sup>

32 US Department of Labor, *Child Labor and Forced Labor Reports: Afghanistan in 2016*. Available online at: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/afghanistan> (Last accessed: 27.02.2018).

33 Anuj Chpora, *Taliban use 'Honey Trap' Boys To Kill Afghan Police*. Available online at: <https://www.yahoo.com/news/taliban-honey-trap-boys-kill-afghan-police-034032649.html> (Last accessed: 27.02.2018).

34 US Department of Labor, op. cit.

35 US Department of Labor, *Child Labor and Forced Labor Reports: Afghanistan in 2010*. Available online at: <https://www.dol.gov/ilab/reports/child-labor/findings/tda2010/afghanistan.pdf> (Last accessed: 27.02.2018) and US Department of Labor, *Findings on the Worst Forms of Child Labor 2014*. Available online at: <https://www.dol.gov/ilab/reports/child-labor/findings/2014TDA/2014TDA.pdf> (Last accessed: 27.02.2018).

# CHAPTER 3

## Causes and consequences of child labour



### TOPICS

- Causes of child labour in Afghanistan
- Consequences of child labour on the children



### GOALS

1. Understanding the causes which lead children to work and the consequences of such work on these children
2. Highlighting some of the justifications presented for tolerating child labour in Afghanistan
3. Highlighting through evidence that child labour is not a solution to the problems faced by the family or community



### OBJECTIVES

By the end of this chapter, the participants will be able to:

- Identify causes that lead children to work instead of attaining education which can help them solve their problems in the future.
- Refute the most common justifications presented by those that tend to tolerate child labour.
- Understand how child labour perpetuates poverty and hinders a child's development thereby undermining his ability to live a healthy and prosperous life in the future.
- Understand the consequences of child labour for the child, including his/her health, education, and development, as well as for his/her family and the community at large.



## METHODOLOGY

Group exercises/Presentation



## TOTAL TIME REQUIRED

2 hours



## MATERIAL REQUIRED

- Clock
- Flipcharts paper
- White board & duster
- Marker pens
- Scissors
- Masking tape
- Laptop/Projector and Screen

## 3.1 Introduction

Following the above discussions on child labour in Afghanistan and having covered the different sectors where children are employed to work, including in hazardous child labour, we need to understand the causes which lead these children to the labour market.

To understand these causes, one needs to appreciate that child labour is not always a consequence of the situation in which the child or his/her family lives; in other words, a child is not always “pushed” by his/her condition to work. In some instances, children are “pulled” to work as the result of a perception that labour leads to a better life.

Hence, in the following pages, we will consider both the push and pull factors that either trigger or prolong the prevalence of child labour in Afghanistan. Moreover, we shall have a look at the consequences of labour for the health and well-being of children who become involved in child labour.

## 3.2 Push factors

Factors that compel or push children towards the labour market at the cost of his/her education can be considered “push factors”. They include poverty, conflict, family pressures and the social mindset which considers work for children a priority over education.

### 3.2.1 Conflict and crisis

Child labour, conflict and crisis (such as famine, natural disasters, etc.) often go hand in hand. Hence, areas hit by violence and conflict are 77 per cent more prone to be affected by child labour than the global average, with a 50 per cent higher rate of hazardous work.<sup>36</sup>

Afghanistan is no exception, as the country has been witnessing four decades of active war and has experienced the worst forms of natural and man-made disasters that has resulted in total or partial destruction of its infrastructure and institutions.

### 3.2.2 Poverty, unemployment and economic reasons

Conflict leads to poverty, which is arguably the most dominant factor in the use of child labour -and vice-versa. According to the World Bank, 39 per cent of Afghans were poor in 2013-2014 as compared to 36 per cent in 2011-2012 which means an increase of 1.3 million poor people. As a result, families living on or below the poverty line force their children into work so that they can supplement the household income when it does not meet its needs.

The lack of social security and protection as well as non-application of labour standards in Afghanistan aggravate the issue, as the vast majority of workers are not protected by labour laws and do not have

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36 ILO, 2017a.

access to a pension or social protection.<sup>37</sup> According to Save the Children, 75 per cent, of the 1,000 children interviewed in March-April 2016 were engaged in labour activities to supplement the household income or pay for school expenses.<sup>38</sup>

However, it is very important to highlight that the link between child labour and poverty is not inevitable. Not only is it possible that poverty forces children into work, it will be perpetuated, if child labour is not eliminated.

Notwithstanding, the studies show that poverty remains the most powerful factor contributing to child labour, mainly caused by the conflict in Afghanistan, and that it is augmented by inadequate income of the family, unemployed adults, absence of a social security or family allowance system and finally, large family size.

### 3.2.3 Social attitude towards child labour

Most children start work by helping their families, before they go out to work for others. They do so partly due to poverty but also, in many societies, because cultural values and expectations view this as a natural and correct way to introduce a child to the roles and responsibilities linked to being a member of a family and to growing up.

This mental attitude of considering serious violations of human rights as normal and routine events in life is a factor which plays a major role in prolonging child labour. One could argue that the same mindset existed regarding slavery, but when it was decided that slavery was one of the worst violations of a human being's dignity and worth, slavery was abhorred, declared illegal and minimized, if not abolished.

### 3.2.4 Educational opportunities or quality of education

Education is a right, not a privilege, and should be available to everyone. Education can have a powerful impact in addressing social and economic barriers in society and is central in building human capacity and empowering people. Education is positively linked to other economic and welfare benefits. It is a necessary precondition to tackling poverty and is essential for sustainable development.

According to UNESCO, the average value of students per teacher during the period 1970 to 2013 was 41.37 students per teacher. The minimum value was 32.1 students per teacher in 1998 and a maximum was at 57.91 students per teacher in 1994. In 2013, it remained at 45.71 students per teacher.<sup>39</sup>

This scenario leads to poor quality of education and lack of interest from students or their parents, especially when they do not observe any improvement in the child's learning, thereby pushing them towards child labour.

Moreover, it was reported that \$1 billion which had been allocated for school construction, staff classrooms and provision of textbooks in fact ended up in the accounts of warlords and corrupt officials. No schools were constructed or the school buildings were not used anymore for schooling. It was also discovered that despite salaries for teachers being issued regularly, 1,100 schools listed as active in 2011 by the Ministry of Education (MoE) were not operating at all by 2015. Moreover, the number of schools constructed or renovated with the US funding dropped from 680 schools cited in 2010 to 563 by 2015.

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37 ILO, 2012.

38 Save the Children, 2016.

39 UNESCO, 2016.

Since the school facilities are inadequate, children often do not find any other meaningful alternative but to opt for work, whatever it may be. Therefore, it can be asserted that the rampant corruption, flawed syllabus, physical beating (which is a daily routine in schools), and ghost schools, contribute to pushing children into work at an early age. Parents who fall ill or lose their jobs, considering the condition of education in their area, may see little alternative but to send their children to work and make sure they have some income.

Especially with regard to girls, the discrimination in access to education together with social attitudes to female education push girl children to work. Though post 2001, the Government of the Islamic Republic of Afghanistan (GoIRA) with the assistance of the international community had declared education and reforms in the education system at the top of their list of priorities, it appears that not enough has been done and achieved.

Some Afghans believe that women belong to the family of their husbands and therefore even if they are educated, they are not going to help their own parents' family; education is therefore not worth the attention or expense. Also, as the community is tribal in nature, at times it feels insecure to send their female children to school.

Lastly, it is a common perception that the aim of education is to gain employment, and since female employment is taboo, some may consider the education of girls a waste of time and resources. As they have to stay at their home after getting married, the women are supposed to seek only religious education; so that to a certain extent they can help their children to read the Arabic Alphabet from the "*Qaida-e-Baghdadi*".

Alarmingly, according to a "Their World" Report, more than 3.5 million children, one third of Afghan children were out of school at the start of the school year in March 2017. Three quarters of these drop outs were girls who were compelled to stay away from school because of violence, lack of female teachers, early marriage or social restrictions imposed by society.<sup>40</sup>

All these reasons, combined, encourage parents to send their daughters to be engaged in domestic work and in agricultural work under their supervision.

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40 Theirworld, 2017.

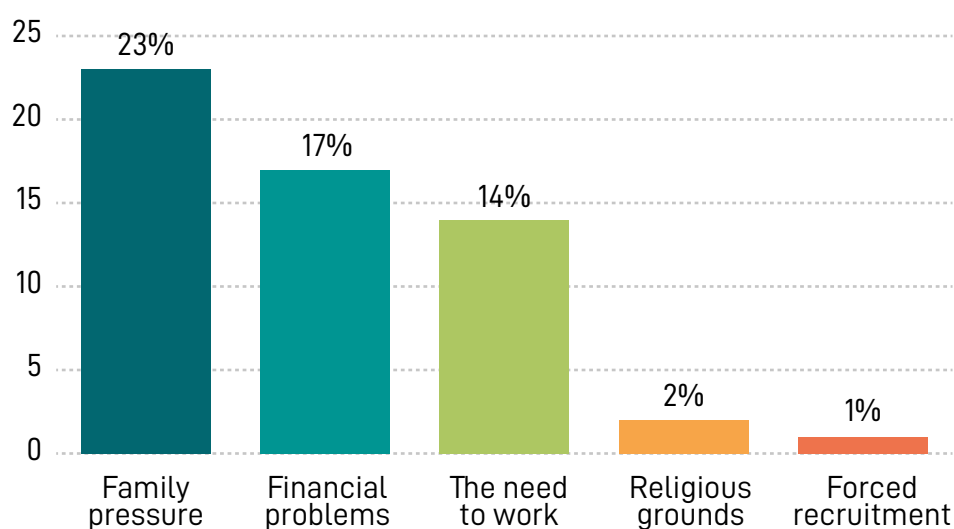
### 3.2.5 Culture and lack of parental guidance

Child labour carries on in Afghanistan in part because parents feel their children are either unable to attend school, or because there is no school nearby. They might also feel that education is no good for their children's future, especially when they see literate youth suffer from unemployment, reticent to take on physical jobs, because doing such jobs after getting a Bachelor's or Master's degree is unthinkable.

In some cases, child labour may be considered as an element in the process of learning the means of survival, i.e. children start working at a tender age so that they can learn skills that could be useful in their future.

If we focus on the use and recruitment of children in conflict, we find that both parties to the conflict in Afghanistan, i.e. the State as well as ANSAs including the Taliban and Islamic State, recruit children for use in armed conflict, body guarding, performing other tasks while accompanying armed forces or elements, planting improvised explosive devices, or acting as suicide bombers. In 2014 alone, the UN had verified 20 cases of the recruitment of children for use in armed conflict by different ANSAs.

**Figure 3: Reasons for joining armed forces**



Source: AIHRC 2017.

Looking at the causes behind opting to join the warring parties, the chart above indicates that out of the 5,700 children interviewed by the AIHRC during 2015 and 2016, 57 of them, who make up 1 per cent of the total participants of the survey, had been involved in armed activities. Some 23 per cent had taken up arms due to family pressure; 17 per cent due to financial problems; 14 per cent had no other job to perform; 2 per cent were instigated by religious reasons; and 1 per cent were forced by armed groups to join them. Out of these 57 children, 29 had joined government forces; 14 joined ANSAs while 14 were unable to discern whether they had joined government forces or ANSAs.



## 3.3 Pull factors

In contrast to the push factors mentioned above, there may also be factors which attract a child to work and hence are termed "pull factors". For instance, there may be a demand for children to work in cases where employers consider children "cheaper" for performing work for which adult employees will charge more. In addition, child labour is easy to manage. Children will not form trade unions and hence there will be no fear of strikes or bargaining; they easily accept long hours of work and rarely protest against poor working conditions.

The following are some of the major factors that attract and pull children towards the labour market.

### 3.3.1 Family relying on a child's income or attraction of earning an income

Sometimes it is claimed that child labour is in fact a contribution to the family income and an attempt to support their family. Many children start to work when instructed to do so or at least by a request from their family. In many cases children work simply because they are told to do so. In such cases, even if the family does not rely on their income, the work is deemed to be vital considering that the child too is a member of the family and is therefore supposed to share the financial burden.

A 2008 study suggests that it is a cultural norm that "all Afghan family members, including teenagers and children, experience a sense of duty to financially contribute to the family".<sup>41</sup> On these grounds and with this common understanding, it is widely believed that it is essential for a child's development to work, inside or outside the home.

In some cases, children will choose to work only to be or appear successful. Children, just like adults and at times even more than them, aspire to certain symbols of success in society. These might differ from society to society, but in Afghanistan, our interviews with students from different schools suggest that these symbols include cars, cash and cellphones ("3Cs"). That is the reason why children even opt for the WFCL: in order to obtain the 3 Cs and thus compete socially with children who belong to elite and affluent families.

### 3.3.2 Docility

This factor co-relates with culture and social attitude as there is a wide array of types of work that are deemed to be best performed by children. For instance, for the reasons mentioned in the beginning of this discussion and others, children are deemed to be perfect employees in automobile shops, for washing and cleaning cars on the roads, shoe shining, and selling ordinary things of daily use.

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41 USDOL, 2008.

### 3.3.3 Demand for unskilled labour

As mentioned earlier, demand for unskilled labour, the best source of which is children, is another factor which contributes to child labour. Children are a cheap source of labour and hence are employed for doing work that adults avoid to perform or for which they charge more money. In this way, the employers ensure an increase in their profit margin, albeit at the cost of the health and safety of the children performing this work.

**Table 2: Key identified causes of child labour**

<b>Poverty</b>	The most significant factor in forcing children to work is poverty. Where survival is at stake, all the human resources of a family are likely to be committed to earning an income.
<b>Customs and traditions</b>	Children may be expected to follow in their parents' footsteps in a particular trade and therefore may begin to learn/practice the trade at an early age. Some regard education as being less important for girls than boys.
<b>Availability and quality of education</b>	Adequate school facilities may not exist or the cost of school may be too high. Education may not be seen as relevant to local needs.
<b>Enforcement of child labour laws</b>	Many countries have endorsed international policies and have national constitutional policies on child labour. However, many countries lack effective labour inspection and monitoring systems and employers are still able to exploit children.
<b>Demand for child labour</b>	Child labour also depends on supply and demand. Children are often employed because they are easier to manage than adults, less aware of their rights, easily manipulated and often considered as expendable.

### Causes of child labour in Afghanistan: Group exercise

 **1:30 hours**

 **Note for Facilitator:**

**Step 1:** The flipchart paper where the participants recorded the sectors/types of work performed by Afghan children and the gender/age group of child workers is put before the participants to refresh their memory. They are asked if they intend to make any final changes to the same list in light of the presentation made in the previous session.

**Step 2:** Once the lists are finalized, hand over the lists to each group that prepared them in the first place and ask them to discuss and mention the causes for child labour in each sector they have put on the list. They need to distinguish between push and pull factors.

**Step 3:** A leader from each group is invited to write down the reasons/grounds for child labour in each sector in two columns of push and pull factors. In case of repetition the group may forego their ground/reason and add fresh responses only.

At the end of this exercise, a comprehensive list of sectors where child labour is prevalent along with causes of child labour is prepared and shared with all.



## 3.4 Consequences of child labour

Child labour is not only a threat to the future of nation, i.e. the children; it is also a threat to the overall prosperity of the society and the country. Although as seen in the preceding discussion, it has been argued on numerous occasions that child labour denies children their fundamental rights including the right to education and health, in fact it does even more harm to them by stealing their childhood.

### Group Exercise: Child labour and consequences for children's health



 40 minutes

#### Note for the Facilitator:

**Step 1:** Ask the participants to work in small groups of 4-6 persons. Each group is asked to list the consequences of child labour in every sector in the final list prepared by them.

**Step 2:** A leader from each group is then invited to write his/her group's opinion in brief on the flip-chart paper or present it while others take notes for further discussion. You may even choose two people to do this task where one will read and the other will write the consequences on the flipchart paper.

**Step 3:** Invite the participants to observe the presentation/slideshow. Focus should be on the consequences that the participants have missed in their discussion. They are asked to amend their flip-charts if they feel some of the consequences have been missed out.

### 3.4.1 Child labour and children's health

Unaware of the dangers involved in their work, children involved in child labour are exposed to a number of short and long-term risks. A Save the Children report suggests that 91 per cent of 1,000 interviewed children reported experiencing some level of violence, mainly kicking, beating with objects, choking or burning; 31 per cent had lived in a place where they saw people being shot, bombs going off or people fighting; 18 per cent of the children surveyed reported rape and the most egregious forms of violence; 17 per cent of children and 69 per cent of adults reported sexual harassment, and 18 per cent of children reported feeling vulnerable to recruitment into armed forces.<sup>42</sup>

The following list explains the tasks that children in each sector have to perform, elaborating on the hazards they are exposed to and the negative consequences that work could have for their health.

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<sup>42</sup> Save the Children, 2016.

**Table 3: Children's tasks, hazards, and health consequences**

SECTOR	TASKS	HAZARDS	HEALTH CONSEQUENCES
<b>Agriculture</b>	Working with agricultural tools and machinery, use of lawnmowers and circular saws; handling and spraying of agrochemicals; caring for farm animals and herding sheep; crop picking and weeding; collecting fodder; loading	Inadequate or unprotected machinery and tools; driving tractors and farm vehicles; motor vehicle accidents; noise and vibration; risk of falls and suffocation in grain elevators and silos; dangerous animals; biological toxic agents; exposure to hazardous chemicals; arduous work; working without personal protective equipment; exposure to extreme temperatures; heavy loads	Lacerations, cuts, injuries and death, fractures and amputations of fingers, limbs and toes, head injuries or other handicaps caused by equipment and farm machinery mishaps; induced hearing loss; eye injuries; parasitic infections and other infectious diseases; dermatitis; thermal stress; chemical poisoning (chronic and acute)
<b>Auto repair</b>	Repair of storage batteries; degreasing metals; electroplating; housekeeping; minor mechanical repairs; tire maintenance; washing and fueling cars	Exposure to carbon monoxide, benzene, solvents and asbestos; noise; unsafe tools and machines; manual handling of heavy objects; inadequate ventilation; poor housekeeping; risk of fire or explosion	Burns, injuries, carbon monoxide poisoning; falls; hernia and strain; dermatitis; chemical poisoning (lead, burns, injuries, carbon monoxide); asbestosis; lead poisoning
<b>Carpet weaving</b>	Yarn preparation; wool sorting, washing, hand spinning and weaving, dyeing, trimming	Inhalation of wool dust contaminated with biological agents; inadequate working postures (squatting); inadequate lighting; hazardous chemicals; inadequate ventilation, housekeeping and sanitation, repetitive movements	Musculo-skeletal disorders; eye strain and defective vision; respiratory diseases; fatigue; chemical poisoning
<b>Construction work and brick-making</b>	Digging earth; carrying loads; shoveling sand and cement; metal work; roofing; working with wallboards and fixing pipes; crushing, grinding, screening and mixing clay in brick-making; carrying bricks	Injuries due to falls and falling objects; arduous tasks; exposure to harmful dusts and noise; exposure to asbestos; poor housekeeping; working without personal protective equipment; extreme weather conditions; silica exposure, carrying of heavy weights; lead exposure from glaze; excessive heat from ovens; carbon monoxide from kilns	Musculo-skeletal disorders; respiratory diseases such as asbestosis; fatigue; injuries caused by falling objects and by stepping on sharp objects; falls from heights; burns, lead poisoning, silicosis, carbon monoxide intoxication; thermal stress
<b>Metalwork</b>	Welding, soldering and smelting of metals (lead); brass work; electroplating	Exposure to extreme heat; flying sparks, exposure to lead and other hazardous metal vapors	Eye injuries, thermal stress, burns, neurological impairment; lead poisoning
<b>Mines (quarries and underground)</b>	Carrying rocks, slate slabs or other heavy weights; digging and quarrying; bending over, kneeling or lying down in cramped positions in underground work	Risk of falls; injuries due to falling objects and fatal accidents; risk of explosion from methane; exposure to harmful dusts, gas, fumes carbon monoxide; strain from carrying heavy loads; arduous work; poor sanitation; inadequate nutrition; noise	Fractures and injuries caused by falling objects, death; respiratory diseases (silicosis, pulmonary fibrosis, emphysema); physical strain and fatigue; musculo-skeletal disorders

SECTOR	TASKS	HAZARDS	HEALTH CONSEQUENCES
<b>Bach Bazi, Prostitution</b>	Entertaining, Sex	Exposure to drugs, violence, abuse, bondage, danger to health and morals; exclusion from family and community	Sexually Transmitted Diseases (syphilis, hepatitis, HIV, etc.); psychosocial disorders; unwanted pregnancy
<b>Scavenging and rag-picking</b>	Reclaiming usable material from garbage heaps	Cuts from glass/metal; exposure to hazardous substances including waste from hospitals; inhaling noxious fumes and gases; exposure to flies; temptation to eat discarded food; unsanitary conditions; risk of being run over by trucks or other vehicles	Cuts, burns, tetanus; chemical poisoning; infectious diseases (HIV, hepatitis); tuberculosis, respiratory diseases; food poisoning; malnutrition; injuries and death
<b>Street work</b>	Hawking and vending goods; carrying drugs; selling newspapers; shoe polishing; begging; cleaning car windows; red-light performances; delivering goods; messenger	Exposure to drugs, violence and criminal activities and prostitution; traffic accidents; danger to health and morals	Injuries from traffic accidents; drug addiction; social outcasts; long working hours; malnutrition; sexually transmitted diseases; psychosocial disorders; unwanted pregnancy.

Source: IFC Environment and Social Development Department, *Good Practice Note in the Workplace and Supply Chain Addressing Child Labor*.

### 3.4.2 Child labour and children's education

In addition to the adverse effects child labour has on the health of a child worker, it is clear that education is another negatively affected area. The following are some of the effects of child labour on a child's education:

- Failure to attend school and seek education;
- Inability to concentrate mainly due to fatigue caused by work and to study or do homework and other tasks assigned at school;
- Frequent absence and inability to be punctual, leading to missing classes and hence not being able to carry on with his/her fellows;
- Poor performance in school leading to failure in examinations and lack of interest in pursuing education; and
- Dropping out.

### 3.4.3 Child labour and children's development

Ill health, as well as the inability to pursue education resulting in dropping out of school can have psychological implications for a child mostly in the form of embarrassment and lack of courage to make efforts to remain in the same circle of friends. Such children prefer therefore either to keep company with those who have also left school, work in the market or on the streets. More specifically, the following are some of the effects that child labour can have on the social development of a child:

- Inability to pursue education, subsequent poverty and lack of decent work;
- Inability to find time for rest and leisure which are very important for a child's intellectual and physical development. This will in turn lead to solitude and seclusion; and
- Child labour under hazardous conditions may lead to an addiction to narcotics suffered by the child. The AIHRC reports that many of the children in the border areas and inside the cities who are engaged in the cultivation, production and trafficking of narcotics become gradually addicted to narcotics and other drugs.

### 3.4.4 Child labour and the socio-economic development of the country

In addition to the above, child labour also poses a threat to the family and society at large because it negatively affects the socio-economic development of a country where child labour prevails or is tolerated.

To elaborate this line of reasoning further, we need to bear in mind that we are considering a community that relies on child labour for meeting its economic needs. In such a situation, children may be effectively barred from pursuing an education which is crucial for their development, thus preventing them from becoming skilled and productive workers in their future, i.e. adulthood.

As a result, these children remain in a hand-to-mouth mode during their life, not being in a position to familiarize themselves with developments in the work they perform and are incapable of taking advantage of the innovations that occur in their field of work. In Afghan society as a whole, uneducated and poor workers involved, for example, in carpet weaving, construction, brick kilns, and agriculture are unable to adapt to the modern techniques in these industries and are pushed out of competition by others that are capable of adaptation.

Those who tolerate child labour with the expectation that it helps the child and his/her family fight poverty need to realize that child labour does not eliminate poverty. On the contrary, it perpetuates poverty in the society and breeds further child labour, ultimately hampering the overall socio-economic development of the country. Uneducated children who work today will not be in a position to contribute to the economic prosperity of their country in the future.

Moreover, long hours of work may at times cause psychological problems to the child and therefore she/he may get violent and find her/his way into gangs and drugs living a criminal's life and hence threaten the law and order in society.

## Said Manan's Story of Life

 30 minutes



Said Manan started working in his ancestral farms when he was 10 years old. He was responsible for cleaning the fields from useless grass and plants and cooking food for others.

Find out how this affected his future by selecting the different phases of his life.

### Childhood

Said Manan rarely attends school as he spends most of his time in the fields with his family. He has no time to play with other children which further affects his cognitive and social development. Working conditions are very hazardous. He is regularly injured, bitten by insects that are very common in their region and feels giddiness due to pesticides used in the fields and usually vomits.

### Adolescence

At the age of 17, even though Said Manan has worked for several years, he has no real transferrable skills. His lack of education means that his literacy is poor as he cannot even write his name or read the labels on bags they use to transport yields. He finds it difficult to make friends and spends much of his time alone. At 17 years old he is now considered an experienced worker and is required to perform even more heavy and hazardous tasks which includes spraying insecticide onto the crops.

### Adulthood

Said Manan now lives with dermatitis and lower back pain in addition to pesticides undermining his brain and mental capacity. He has lost his confidence and lives in isolation. He does not want to go to farms for he needs to keep his hands away from soil and remain away from crops that have been sprayed on. His ability to work is very limited. To survive, he relies on his own children working in the same fields where he got infected by these diseases.

### Old age

Said Manan can no longer work and throughout his life he has been unable to put aside any provision for his old age. All his savings were not even sufficient for his own treatment. His health is poor and he relies on his extended family for food and care.

### Note for Facilitator:

Ask the participants to share real stories that they have witnessed or heard about from their colleagues.





# CHAPTER 4

## The worldwide commitment to end child labour



### TOPICS

Child Labour in the UN global development framework, and the scope of international efforts to eliminate child labour



### GOALS

1. Getting familiar with the main global development framework and its relevance to the elimination of child labour
2. Getting to know the progress and challenges related to the elimination of child labour, globally and in Afghanistan



### OBJECTIVES

By the end of this chapter, the participants will be able to:

- Understand the place of child labour in the SDGs.
- Appreciate the global and national challenges related to the elimination of child labour by 2025.



## METHODOLOGY

Group exercises/Presentation



## TOTAL TIME REQUIRED

1 hour



## MATERIAL REQUIRED

- Clock
- Flipcharts paper
- White board & duster
- Marker pens
- Scissors
- Masking tape
- Laptop/Projector and Screen

## 4.1 Introduction

The UN Millennium Development Goals (MDGs), which were in place from 2000 to 2015, led to significant progress in many areas of social development, such as enhanced primary education enrolment rates, but they failed to adequately address child labour and other child protection issues. Conversely, as the previous chapter has shown, child labour is a complex phenomenon that requires a holistic response. In this regard, the current international development framework, the Sustainable Development Goals (SDGs), offers the potential for facilitating multi-sectoral efforts to combat child labour.

## 4.2 The Sustainable Development Goals (SDGs) and child labour

The 2030 Agenda for Sustainable Development with 17 SDGs and 169 targets form a comprehensive and holistic global framework, with commitments on all three dimensions of sustainable development (the social, the economic and the environmental sustainability), including children's rights.



## 4.2.1 Child labour in the SDGs

Two SDG targets are directly related to child labour:

- **Target 8.7:** Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms
- **Target 16.2:** End abuse, exploitation, trafficking and all forms of violence and torture against children

Hence, for the first time in history, the global community, through Target 8.7, has set a specific date for the elimination of all forms of child labour: 2025.

Due to the multi-faceted causes and consequences of child labour (as discussed in Chapter 3), several other SDG goals and targets are indirectly related to child labour, including (but not limited to):

- **Goal 1:** End poverty in all its forms
- **Target 3.8:** Achieve universal health coverage, including financial risk protection, access to quality essential health care services, and access to safe, effective, quality, and affordable essential medicines and vaccines for all
- **Goal 4:** Ensure inclusive and equitable quality education and promote life-long learning opportunities for all
- **Goal 5:** Achieve gender equality and empower all women and girls
- **Target 8.5:** By 2030 achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities
- **Target 10.2:** By 2030 empower and promote the social, economic and political inclusion of all irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status

## 4.2.2 Alliance 8.7: a global partnership against child labour

Under the leadership of the ILO, Alliance 8.7 is a global partnership committed to take immediate and effective measures to eradicate forced labour, modern slavery, human trafficking and child labour, in accordance with SDG Target 8.7. Its mission is to assist all UN member States to eradicate forced labour, modern slavery, human trafficking and all forms of child labour.<sup>43</sup>

The ILO is working with Alliance 8.7 members across all four of the partnership's goals: accelerating action towards compliance with the target, conducting research and sharing knowledge, driving innovation, and increasing and leveraging resources.

The ILO and Alliance 8.7 propose the following four elements of an integrating policy response to child labour (Figure 4):<sup>44</sup>

1. Legal standards and regulation against child labour
2. Decent work for adults and youth of legal working age

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43 For details about the alliance, its objectives, actions and partnership, visit: <http://www.alliance87.org>.

44 ILO, 2017a..

3. Social protection system, including protection floors
4. Inclusive and equitable quality education for all

**Figure 4: Elements of an integrated policy response to child labour**



### 4.2.3 Other key partnerships

Other key partnerships against child labour include:

- The **International Partnership for Cooperation on Child Labour in Agriculture**, which brings together the United Nations Food and Agriculture Organization (FAO), the ILO, the International Fund for Agricultural Development (IFAD), the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), and a variety of other organizations and stakeholders in global efforts to eliminate child labour in agriculture.
- The **World Bank Group and ILO Universal Social Protection Initiative**, which is aimed at promoting the shared vision of the two agencies of universal social protection to ensure that no one is left behind.
- The **SDG-Education 2030 Steering Committee**, which is the global multi-stakeholder coordination mechanism for education in the 2030 Agenda.
- The **Child Labour Platform**, co-chaired by the International Organisation of Employers and the International Trade Union Confederation, which is a forum to tackle child labour in supply chains.
- The **Child Labour Task Force** of the Alliance for Child Protection in Humanitarian Action, co-led by Plan International and the ILO, which is a response to the widely recognized need to improve responses to child labour in emergencies.

The Global Partnership to End Violence against Children also supports the elimination of child labour.

### 4.2.4 The challenge in achieving SDG Target 8.7

Although tremendous progress has been made in the fight against child labour worldwide, the current challenge is that the speed of decline has slowed down since 2012 when the international community started pushing for meeting SDG Target 8.7, and eliminating child labour by 2025.

In general, the reduction in the number of children in child labour amounts to 16 million for the 2012 to 2016 period, just one third of the 47 million reduction recorded during 2008 to 2012. Expressed in relative terms, the share of children in child labour fell by only one percentage point during 2012 to 2016 compared to three percentage points in the previous four-year period. The decline in hazardous work slowed in a similar fashion.<sup>45</sup>

Hence, the international community needs to move much faster if it is going to honour its commitment to reaching Target 8.7. Based on the pace of progress achieved during 2012 to 2016, it is projected that 121 million children will still be involved in child labour by 2025, of which 52 million would be in hazardous work. Alarmingly, even by achieving the pace of progress achieved during 2008 to 2012, which is the fastest recorded so far, Target 8.7 will not be achieved. Therefore, though we are moving in the right direction, we need to move much more quickly to completely eliminate child labour by 2025.

To this end, the most recent ILO World Report on Child Labour<sup>46</sup> highlights the following priority actions:

- Ensuring an adequate legal architecture for protecting children from child labour
- Developing labour market policies to promote decent rural livelihoods and address the informal economy

45 ILO, 2017b.

46 ILO, 2017a.

- Building and extending social protection systems, including floors
- Expanding access to free, quality public education
- Addressing child labour in supply chains
- Addressing child labour in situations of state fragility and crisis
- Building knowledge to guide action

### 4.2.5 Achieving SDG Target 8.7 in Afghanistan

As far as the challenges in achieving the SDG 8.7 in Afghanistan are concerned, it is important to highlight that although there is visible improvement in the legal framework concerning labour, this is not reflected in the situation on the ground.

As we observed in Chapter Two, child labour is still practiced widely in many sectors of Afghanistan as well as in the informal economy which accounts for almost 80 per cent of the total Afghan economy. The brick kilns, carpet industry, metal work, and mechanical services are heavily dependent on child labour and even involve instances of forced and bonded labour.

Though Afghanistan has made it to the second tier in the US trafficking in persons (TIP) ranking, there are instances of child trafficking and use of children for prostitution, begging, and smuggling. In addition, child pornography is not very common in Afghanistan but sexual exploitation of children is widespread and the AIHRC's report on *bacha bazi* in Afghanistan substantiates the existence of this evil in different parts of the country.

Moreover, evidence of the use and recruitment of children by the armed forces as well as by ANSAs is readily available. Corruption in Afghanistan facilitates the forging of documents and obtaining new ID cards which indicate an age above 18 for a child so that he may be admitted into service and in return be able to earn a livelihood for his family. Then again, in December 2017, a 12-year-old boy was used for a suicide attack in Kabul.

The Afghan Ministry of Economy has issued the Afghanistan Sustainable Development Goals and asserted that the GoIRA will commence implementation of the SDGs with effect from January 2018.

Regarding Goal 8.7, the most recent statistics show that 11.8 per cent of children between 5 and 11 years; 7.7 per cent of children between 12 and 14 years, and 5.8 per cent of children between 15 and 17 years are involved in labour which by 2030 shall be reduced to 5 per cent, 4 per cent, and 2 per cent respectively.

This suggests that Afghanistan will likely not be able to end child labour in all its forms by 2025; however, the GoIRA plans to bring the percentage down by 2030. Keeping in mind the factors that lead to child labour and WFCL, including conflict, poverty, inequality in pay, lack of better educational opportunity and most of all the prevailing mindset about child labour, even this goal, appears difficult. Hence, the GoIRA is required to work on the basis of an integrated approach to fight the problem of child labour on many fronts.





# CHAPTER 5

## The national legal and policy framework



### TOPICS

Afghan legal documents dealing with child rights and violations thereof



### GOALS

1. Understand the Afghan legal documents that address child rights
2. Familiarize the participants with legislation that addresses child work and employment
3. Familiarize the participants with legislation that punishes perpetrators in case of violation of the rights of a child



### OBJECTIVES

By the end of this chapter, the participants will be able to:

- Enumerate the legislation/enactments and policies that are devised to protect child rights or in response to the problem of child labour.
- Appreciate aspects of the rights of the child that are covered by the Afghan legal and policy document.
- Discuss the points of compliance or inconsistency of Afghan laws with international instruments.
- Understand the chances of improvement within the Afghan legal system dealing with child rights and child labour in its various manifestations.



## METHODOLOGY

Group exercises/Presentation



## TOTAL TIME REQUIRED

2 hours



## MATERIAL REQUIRED

- Clock
- Flipcharts paper
- White board & duster
- Marker pens
- Scissors
- Masking tape
- Laptop/Projector and Screen

## 5.1 Introduction

Following an analysis of the concepts of child work, child labour and WFCL, we had a look at the fact that Afghanistan is home to a large population of children involved in child labour and pondered the factors behind this phenomenon. We also had a look at the global commitment to eliminate child labour.

It is now opportune to review the legal system and policy framework of Afghanistan and see what steps it recommends for combating the menace of child labour.

## 5.2 The Afghan legal system

Legally speaking, Afghanistan is a dualist country and therefore it has to pass enabling legislation to incorporate its international obligations under treaties into its domestic law. In simple words, the international obligations of Afghanistan created by treaties to which it has acceded are not enforceable in its courts unless the Afghan parliament passes enabling legislation aligning international obligations to its domestic obligations.

The same is true for Afghanistan's obligations under international labour instruments. Afghanistan has made considerable advances in passing child labour laws and regulations based on international labour standards.

There are still areas which are neglected and efforts should be made to regulate them as well. In the following section, we shall have a look at the national legal and regulatory framework of Afghanistan that is relevant to our current discussion.

## 5.2.1 The Constitution of the Islamic Republic of Afghanistan, 2004

The Afghan Constitution contains *inter alia* relevant provisions regarding the right to education, the right to work, the prohibition of forced labour, and the family.

### Article 43: Right to education

Education is the right of all citizens of Afghanistan, which shall be offered up to the BA level in the state educational institutions free of charge by the state.

### Article 48: Right to work

Work is the right of every Afghan.

Matters related to working hours, paid holidays, employer and employee rights and related matters shall be regulated by the law. To discourage forced labour, it proclaims that the choice of occupation and craft shall be free within the boundaries set by the law.

### Article 49: Prohibition of forced labour

Forced labour shall be forbidden generally, and forced labour in case of children shall not be allowed.

This is despite the fact that Afghanistan has not ratified the ILO Forced Labour Convention 1930 (No. 29).

### Article 54: The family

Family is the fundamental unit and "pillar" of the society and its protection shall be guaranteed by the State. It shall adopt necessary measures to attain the physical and spiritual health of the family, especially of the child and mother. It also addresses the upbringing of children, and the elimination of traditions contrary to the principles of the sacred religion of Islam.

Issues that amount to grave violations of the human rights of women and children that are proved to jeopardize their health, well-being and overall development of a child become relevant here and it is held to be the duty of the State to take all necessary measures to put an end to them. Child labour, WFCL, TIP, child abuse including underage marriages qualify as such.



Taken together, Articles 48 and 49 of the Constitution lay down the general structure of the right to work in Afghanistan. They provide that work is indeed the right of every Afghan, but forced labour, especially when it comes to forced labour regarding children, shall remain prohibited at all times. Matters related to work, including but not limited to, working hours, holidays, and the rights and duties of employers and employees shall be laid down in another law, thereby providing legitimacy to the Afghan Labour Code.

## 5.2.2 The Labour Code, 2008

The Afghan Labour Code was first promulgated in 2007, while the Labour Code 2008 is currently in force. It contains provision *inter alia* regarding the following relevant aspects:

- Minimum age of employment
- Young employees
- Wages

- Hours of work
- Leave entitlement
- Overtime

### 5.2.2.1 The minimum age

#### Article 13: Terms of employment:

1. A person can be employed only when he/she has attained 18 years of age. However, for light work the minimum age is set at 15 years while for apprenticeships the age limit shall remain at 14 years.
2. Engaging children below 18 years of age for work that is deemed hazardous to their health and that causes physical damage or disability shall remain prohibited.
  - The age of an employee, at the time of employment, shall be determined according to dates mentioned in his/her National ID card (Tazkira) taking the day and month of his/her birth into consideration.
  - Such information should be recorded in the personal file of the employee and modifying the age is not valid once it has been recorded in an employee's personal file.
  - The above details are in line with the ILO Minimum Age Convention 1973 (No. 138).



#### Article 16: Preparation of the employment contract

Recognizing the fact that according to the Civil Code a child does not enjoy full legal capacity and therefore he/she cannot enter into enforceable contracts, the contract for light work or apprenticeship of a person who has not attained 18 years of age shall be signed by his/her parent or guardian

### 5.2.2.2 Young employees

#### Article 127: Young employees

Youth, i.e. young employees, are employees who have attained 14 years of age but are below 18 years of age.

- These potential employees shall be hired after due medical examination by the entity that intends to engage them.
- The opinion of medical professionals provided in this regard shall be maintained in the employee's personal file.
- Medical check-up of the young employee, at least once a year, is the liability of the employer.



#### Article 128: Medical examination of the young employee

An employer shall, with assistance from professionals at a recognized health center, diagnose the physical capacity of a young employee and then devise terms of reference for him/her to specify the nature and extent of work to be performed.

### 5.2.2.3 Wages

#### Article 9: Non-discrimination

All kind of discrimination is prohibited in recruitment, payment of salary and allowances, selection of occupation, profession, skill and specialty, right to education and social securities.

#### Article 129: Wages of young employees

The wage of the youth (young employee) is to be paid in an amount equal to the wage of the employees who are of 18 years of age or more, with due regard to rank and grade, but regardless of the reduced working time contained in Article 31 of the Labour Code.

The wage of each working unit of the employee who is less than 18 years of age is equal to that of an employee who is 18 years old or more.

The wage difference due to reduced hours of work paid to a piece-worker who is younger than 18 years of age is based on his main grade.



### 5.2.2.4 Hours of work

#### Article 31: Reduction of the work time

- Unlike adults who work for an average of 40 hours a week throughout the year, children between 15 and 18 years of age shall work 35 hours per week.
- Workers engaged in underground work, which includes mining, and work that qualifies as hazardous shall work 30 hours a week without any negative effect on their salary scale
- MoPH and MoLSA are instructed to prepare and publish a list of work that is qualified as hazardous work; this list was finally prepared in 2014.



### 5.2.2.5 Leave entitlement

#### Article 46: Recreational leave

Unlike adults who are entitled to 20 days of annual recreational leave, employees below 18 years of age are entitled annually to 25 days of recreational leave, and employees who are engaged in underground work or hazardous work, even if they are 18 or above, are deemed entitled to 30 days of leave annually.



### 5.2.2.6 Overtime

#### Article 122: No overtime for youth

Youth cannot be assigned to do overtime work, work during public holidays or travel in order to do official work.



### 5.2.3 The Penal Code, 2017

The Penal Code, 2017, entered into force in February 2018, nine months after its adoption. It has been updated to meet the challenges of modern times as the previous Penal Code had been adopted back in 1976.

#### 5.2.3.1 Offenses against children

#### Article 609: Barring children from education, training or health facilities

Anyone who prevents a child from seeking education and vocational training or from availing themselves of health services shall be subject to Short Term Imprisonment (STI), which is imprisonment from three months to one year or with a fine of Afghani (AFN) 30,000 to AFN 60,000.



#### Article 613: Child employment in hazardous and underground work

Any person who engages children in hazardous work, meaning, "physical work, heavy work, underground work, night work, overtime, and other work that is detrimental to the health of the child" or forces the child to leave his place of residence shall be subject to a fine of AFN 10,000 to AFN 30,000.

#### Article 616: Exposing children to hazard/danger

- a. Anyone who himself or with an accomplice endangers the life of a child is subject to Medium Term Imprisonment (MTI), which is one year up to five years, or is liable to pay a fine of AFN 60,000 to AFN 120,000.
- b. If someone compels a child to perform begging in the streets shall be subject to STI. In case these offenses are committed by a guardian or legal representative of the child, he/she shall be subject to the maximum punishment prescribed under the law.

#### Article 618: Instigating children towards indecency and immoral activities

If a person instigates a child or forces that child to commit acts of indecency or facilitates such behaviour, the perpetrator shall be subject to MTI but of not less than three years. In cases where these offenses are committed by a relative of the child, up to the third degree, or for the purpose of financial benefits, the perpetrator shall be subject to Long Term Imprisonment (LTI) which shall not exceed ten years.

### 5.2.3.2 Bacha Bazi (pederasty)

#### **Article 654: Retaining children to dance in parties or for sexual activity**

A person who retains a male child or an effeminate for arranging dance parties or sexual pleasure shall be sentenced to MTI not exceeding three years.

#### **Article 655: Training children for the purpose of dance in parties**

If the purpose of retaining children, normal or effeminate, is to train them for dancing, the perpetrator shall be subject to MTI not exceeding two years.

#### **Article 656: Forcing a child to dance**

A person who, for the purpose of financial gains, forces the child or effeminate to dance in a party shall be imprisoned for not more than three years but if he/she repeats the same offense, he/she shall be liable of the maximum of MTI, i.e. five years imprisonment.

#### **Article 657: Arranging parties for Bacha Bazi**

If someone arranges a party for bacha bazi or facilitates one with due knowledge, that person shall be liable of STI of not more than three months and if he/she repeats the same offense, then shall be liable of the maximum of STI, i.e. one year.

#### **Article 658: Audience of parties for Bacha Bazi**

The audience of a bacha bazi party is subject to fine of AFN 5,000 up to 30,000; but if they or anyone of them repeats the offense, they will then be subject to STI.

#### **Article 660: Bacha Bazi by armed forces personnel**

In cases where armed forces personnel are found guilty of bacha bazi, they shall be subject to MTI, while the officer in charge of such perpetrators who had knowledge of the fact that his subordinates were involved in bacha bazi but did not take all the necessary measures to prevent it, shall be liable of imprisonment of one year; the maximum STI.

#### **Articles 663 and 664: Sexual exploitation of children**

- a. In case such parties and gatherings result in sexual intercourse on the children involved, the perpetrator(s) shall be liable to second category Extended Imprisonment (i.e. 16 to 20 years of imprisonment) in addition to the punishment prescribed for his acts under the chapter on bacha bazi.
- b. But if the party results in sexual acts but not proper intercourse, the perpetrator(s) shall be liable of MTI.
- c. If the result of such parties is acts other than sexual activity with the child, the perpetrator(s) shall be liable of punishment for the act in addition to the punishment for bacha bazi.

#### **Article 662: Buying/selling children for Bacha Bazi**

If someone is found involved in buying or selling children for the purpose of use in bacha bazi, the offense of TIP is applied and he/she shall be liable of punishment prescribed thereunder. It is important to note that victims of bacha bazi are always never prosecuted due to Article 667.





**Article 666: Aggravated punishments in cases of Bacha Bazi**

These situations include:

1. When a perpetrator has retained more than one child in his/her custody for bacha bazi;
2. When the victim(s) are children of less than 12 years of age; when poverty of the child has led to his involvement in bacha bazi;
3. When the crime has been committed by relatives or someone with legal authority over the child;
4. When the crimes have been committed by someone with influence on the child; and
5. When the crime leads to adverse physical or psychological implications for the child.

**5.2.3.3 Sexual harassment****Article 668: Sexual harassment of a child**

Sexual harassment of a child in any manner whatsoever is any act that leads to insult and defamation, social and psychological pressures, risk to safety of the victim, or causes the avoidance of socialization.

**Article 669: The punishment**

The perpetrator(s) shall be subject to a fine of AFN 5,000 to AFN 10,000. If harassment takes place in a workplace, hospital, or educational institution, the perpetrator is subject to a fine of AFN 10,000 to AFN 20,000.

**Article 671: Harassment by someone with quasi parental authority**

In the case of the harassment of a child, or a female, by the perpetrator who is someone with quasi parental authority, or is a medical doctor, or someone on official duty, or with influence; and the harassment results in jeopardizing the physical or psychological health of the victim or the crime is committed more than once, the perpetrator shall be subject to STI of six months.



### 5.2.3.4 Trafficking in persons

#### Article 510: Definition

In the case of a child, if someone tries to "exploit" the child for financial benefits/gains even without resorting to force, threats, coercion, undue influence, abduction, and fraud, it will amount to TIP. Exploitation is defined therein to mean buying, selling, sexual use, using for dance, pornography, slavery, forced labour, begging, use and recruitment for participation in armed conflict, organ trade, forced medical experiments and other illegal activities. This definition appears to be consistent with the international definition of the term.



#### Articles 511, 515, 516, 517: Punishments

- a. The perpetrators of TIP are subject to long term imprisonment of up to ten years, but if the victim is a child or a female, or is used/forced to dance, the perpetrator shall be subject to LTI of more than ten years. It is important to highlight that LTI represents an imprisonment of five to 16 years.
- b. In cases where TIP is committed by a legal entity, that entity shall be subject to a fine of AFN 3 million to AFN 5 million, in addition to the punishment awarded to the natural person who has perpetrated this crime. In cases where the crime is committed again; the punishment shall be coupled with the cancellation of the license.
- c. In cases where a public servant is found guilty of committing acts that facilitated TIP, the perpetrator shall be subject to MTI of up to three years.
- d. The abettor and facilitator of the crime of TIP shall be liable for the same punishment as the original perpetrator.
  - Articles 521 to 528 of the Penal Code cover the offense of TIP of refugees and asylum seekers where the focus is only on ensuring that these trafficked persons reach their destination. In these cases, most of the details provided above are applicable, mutatis mutandis, to TIP of refugees.
  - The US DoS's Trafficking in Persons Report 2017 commends the GoIRA for its significant efforts in meeting the minimum standards for the elimination of trafficking. It acknowledges these efforts due to which Afghanistan has been upgraded to Tier 2 which refers to "States that do not fully meet the Trafficking Victims Protection Act's (TVPA) minimum standards but are making significant efforts to bring themselves into compliance with those standards".

### 5.2.3.5 Use and recruitment of children

- Articles 605 (Prohibition of Employment) and 606 (Punishment of those who Employ Children) of the Penal Code provide that any person who is found guilty of the use and recruitment of children in the armed forces and combat units shall be liable of STI.
- A person who facilitates the recruitment of a child in the armed forces through forged documents shall be deemed guilty of the offense of forgery (Article 607) and will therefore remain liable of MTI under Article 437 of the Penal Code.



### 5.2.4 The Comprehensive Child Act, 2017

The Comprehensive Child Act (CCA) is one of the long-awaited pieces of legislation in Afghanistan. It is pending approval of the Parliament. Meanwhile, the Speaker of the National Assembly of Afghanistan (*Wolasi Jarga*) declared that the law was being evaluated by the concerned committee of the *Wolasi Jarga* and promised to do everything in his authority to ensure that the CCA would be passed soon.

Like the Labour Code, the CCA does not define Child Labour, while the definition of the WFCL appears to be defective. It defines WFCL as that type of work, whose execution is beyond the physical ability of a child and has an adverse effect on the child's physical and mental development. It more or less resembles the definition of hazardous work which is a form of WFCL.

The CCA covers issues such as debt bondage, forced labour, prohibition of the use of children and recruitment in the armed forces, TIP and sexual exploitation. Forced labour has been defined as any work which the child has been forcefully made to perform and which will ultimately harm the child's well-being, education, or physical and mental health and social development.

However, this definition may be flawed because it suggests that forced labour is committed only against children and that the element of force or coercion if coupled with adverse effects on the child's health, well-being and social development will amount to forced labour. In fact, adults and children alike can be victims of forced labour and the adverse effects of such coercion are in fact irrelevant.

The US Department of State's definition of "Trafficking in Persons" can be instructive in this context. It holds that forced labour, sometimes also referred to as labour trafficking, encompasses a range of activities when a person uses force or physical threats, psychological coercion, abuse of the legal process, deception, or other coercive means to compel someone to work. Regarding forced labour of children, it adds that, although children may legally work, they can also be found in slavery or slavery-like situations.<sup>47</sup> These situations include: the child appears to be in the custody of a non-family member; the child is required to work; financial benefits accrue to someone outside the child's family and the child does not have the option of leaving, e.g. in the case of forced begging.

It hence appears that the factor which transforms legal labour into illegal forced labour is the use of force, or threats, psychological coercion, abuse of the legal process, deception or other coercive means. Whether the work is hazardous or not is irrelevant in this context.

### 5.2.5 The National Strategy for Street Working Children, 2011

This strategy was devised and adopted in 2011 to guide and inform the GoIRA, specifically the MoLSA and other relevant ministries, child-focused NGOs and UN agencies on providing effective and sustainable interventions for street working children and their families in order to prevent children from working in the streets as well as to be able to reduce the number of street working children by providing adequate family and community-based support.

.....  
47 USDOS, 2017a.

The Strategy highlights that working children experience exploitative and abusive attitudes while on the street, as well as family and community pressures. It believes that the following are factors leading to child labour:

- Poverty and unemployment;
- Internal displacement and the weakening of community support networks;
- Lack of parental supervision in a child's surroundings;
- Health-related problems amongst family members; and
- Inadequate, poor quality or inaccessible educational opportunities.

It prescribes, in order to counter the phenomenon:

- Short-term (immediate to 18 months to 2 years) Initiatives;
- Medium-term (2-5 years), and
- Long term (5-10 years) interventions.

Though progress has been made in some respects, six years after its adoption, it appears that the Strategy has not had a major impact in reducing the number or changing the perception about children on the street.

Thus, the number of street working children is on the rise, as discussed above, instead of having decreased without there being any legal mechanism in place to address the problem.

## 5.2.6 The National Strategy for children “at risk”, 2006

The National Strategy for Children at Risk was adopted in 2004. It held that every child must have the right to a family and that growing up in a family environment is vital for children at-risk, particularly for special children, street working children, child soldiers and others affected by war.

The objective of the Strategy was to raise awareness regarding the problem of children at risk and to highlight the need for family support and to call on the stakeholders to work in collaboration and coordination in order to efficiently utilize the available resources.

The Strategy declared that more than half the population of Afghanistan was under the age of 19 years, whereas a large proportion of them can be considered to be vulnerable and 'at-risk' of failing to reach their full potential.

The following children are identified to be particularly at risk:

- Special children (those with mental and physical illness)
- Street children, working and street working children
- Kidnapped children
- Trafficked children
- Child Soldiers and other war-affected children
- Children deprived of parental care
- Girls forced into marriage or early marriage
- Internally-displaced and Returnee children

- Children from ethnic minority groups
- Children using drugs, and/or selling drugs
- Children experiencing abuse (sexual, physical, emotional, neglect).

The Strategy recommends three forms of services to help the children at risk:

- Universal Support Services as the Primary Prevention;
- Targeted Services as the Secondary Prevention, and
- Remedial Services as the Tertiary Prevention.

The Primary Prevention Services were designed to address the rights and needs of all children. These services and programmes were aimed at mitigating the risks and hazards encountered by children.

To achieve its objective, the Strategy advocates the prevention of abuse, exploitation and violence of children by laying a common foundation of services which facilitate the healthy development of children and support their families in their role as primary caregivers.

Moreover, the Strategy planned to strive for the elimination of the conditions causing the abuse, exploitation and violence against children so as to be able to put an end to child abuse.

If the above services were to fail in delivering or in reaching the target groups, secondary prevention programmes would be activated. These programmes aimed to strengthen the capacity of 'at-risk' group members and to reduce their specific vulnerabilities or ramifications of such vulnerabilities. These services and programmes were designed taking into account the circumstances of 'at-risk' groups with the goal of reaching them.

Remedial services were a means of responding to actual instances of abuse in order to limit their impact and to promote recovery and mitigate the risk of re-victimization. The Strategy claims to work with both victims and perpetrators. It maintains that working with perpetrators is vital because they need to develop respectful actions in order to avert the risk of violations in the future.

### 5.2.7 The Afghan National Labour Policy, 2011

The Policy acknowledges that child labour in Afghanistan is supply driven. It identifies the causes of child labour in Afghanistan as: low household income, high dependency ratio, parental illiteracy and a disintegrating informal social support system.

The Policy believes that the above are push factors due to which children join the labour market at an early age at the cost of their education, health and other developmental requirements.

It confirms that children not only work in traditional sectors but have also made their way to urban informal sectors, where there is a demand for them as cheap labour. They are also actively engaged in mining, opium trafficking, where they are involved on both sides of the conflict and are victims of sexual exploitation as well.

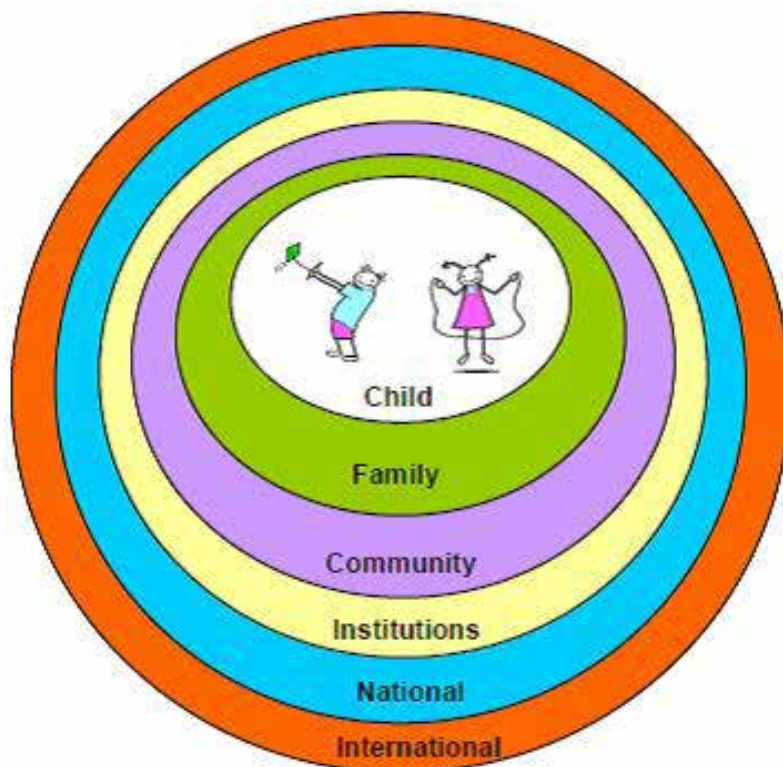
The Policy suggests that for a variety of reasons, child labour must be considered a priority in policy making and recommends four policy interventions none of which has been translated into reality. These include:

- developing a national child labour policy;
- extending social assistance to families of child labourers;

- linking working children to an education system and,
- a compilation of accurate data on child labour.

Recent interviews with employers, including those using child labour, suggest that the problem with these plans and strategies may be that no serious attempt has been made to disseminate them or bring them to the knowledge of the general public or employers.

**Figure 5: The rings of responsibility in children protection**



*Source: Save the Children*

Interviews were carried out with officials from the Afghanistan Chamber of Commerce and Industries (ACCI), who were aware of the developments in Afghanistan and the legal sector overall, but did not provide any satisfactory response as to whether employers receive guidance on the problem of child labour and its consequences for the future of Afghanistan. The individuals who were interviewed simply referred to the fact that the laws are drafted and devised in consultation with the ACCI and the National Union of Afghan Employees (NUAE) and that their Human Resource Department usually convenes workshops on child labour and international labour standards, but were unable to identify the last time any such workshop had taken place.

# CHAPTER 6

## Interventions in combating child labour in Afghanistan



### TOPICS

1. Legal and policy level interventions in the fight against child labour in Afghanistan



### GOALS

1. Understand the challenges in fighting child labour in Afghanistan
2. Identifying the key stakeholders in launching a nation-wide effort to eliminate child labour
3. Identifying the best intervention approach in combating child labour



### OBJECTIVES

By the end of this chapter, the participants will be able to:

- Identify the key stakeholders in combating child labour in Afghanistan.
- Understand the role each stakeholder can and should play in order to tackle the root causes of child labour.
- Devise an intervention strategy for combating child labour.
- Devise a national child labour policy with clear goals and mandates assigned to key stakeholders.



## METHODOLOGY

Group exercises/Presentation



## TOTAL TIME REQUIRED

3 hours



## MATERIAL REQUIRED

- Clock
- Flipcharts paper
- White board & duster
- Marker pens
- Scissors
- Masking tape
- Laptop/Projector and Screen



## 6.1 Introduction

Children's fundamental rights must be protected, and they must be accorded the opportunity of enjoying their childhood in a manner that helps them in due course enjoy a prosperous and healthy adulthood.

It has rightly been asserted that "the innocence of a child should never be taken away for the purpose of making the lives of adults easier. It is both unfair and morally unacceptable".<sup>48</sup> However, the menace of child labour cannot be eliminated overnight. It requires multi-sectoral action by a variety of stakeholders.

In this chapter, we will discuss and try to ascertain those who are able to take action against child labour and then provide some insight into the strategies for fighting this problem.

### Designing an intervention strategy: Group exercise

 40 minutes

 **Note for the Facilitator:**

**Step 1:** Summarize the discussion on child labour and its consequences for the health and well-being of a child in order to assist the participants in arriving at an agreement regarding child labour and its adverse effects.

**Step 2:** Ask the participants to work in small groups of 3-5 persons. Each group is asked to list the strategy they believe will prove helpful in combating child labour in their area of operation. Make sure that the participants understand the scope of a strategy and the areas it has to cover. A leader from each group is then invited to write his/her group's devised strategy on the flipchart paper for further discussion. Ask the leader to put the flipchart paper on a wall in the room.

**Step 3:** Ask the participants go through the papers and highlight the important aspects of the strategies developed by different groups and to work on a joint intervention strategy against child labour in Afghanistan.



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<sup>48</sup> Project Abrazos: Reforming the Reforms: Bal Vikas Montessori School. Available online at: <http://maslowinitiative.org/bal-vikas-montessori-school/> (Last accessed: 19.03.2018).

## 6.2 The intervention strategies

Action against child labour in Afghanistan can be conceptualized as a two-pronged approach. The first strand is direct action against child labour that aims to combat child labour through prevention, withdrawal and rehabilitation of children by providing alternatives and reintegration into the society.

The second strand of action has a developmental focus, where child labour is tackled through addressing the social and economic constraints of the households that opt for child labour. Hence, we need to have a mix of these two approaches and use them as appropriate.

Emerging from the discussions in previous chapters, it should be clear that there is no simple, quick fix for child labour, nor a universal blueprint for action. Only a broad-based combination of economic growth, respect for labour standards, universal education and social protection, coupled with a better understanding of the needs and rights of children, can bring about a significant reduction in child labour.

We need to acknowledge and understand that child labour is a stubborn problem that, even if overcome in certain places or sectors, will seek out opportunities to reappear in new and often unanticipated ways. The response to the problem must therefore be as versatile and adaptable as child labour itself.

With this in mind, in the following pages we are going to analyze and evaluate some of the vital intervention policies that will prove helpful if adopted in Afghanistan.

### 6.2.1 Building knowledge

A serious problem is the lack of reliable data on child labour including WFCL in Afghanistan. Since any successful strategy and plan will depend heavily on credible data, the following steps should be taken:

- Make all possible efforts for collecting quantitative data and update the information which is available;
- Share information and statistics with all the stockholders, public and media houses for input and review; and
- Undertake relevant studies and research; seek assistance from NGOs, Academia and Civil Society.

### 6.2.2 Awareness raising on child labour and its adverse effects

As previously discussed, child labour may sometimes be considered normal, or even positive because it enables a child to withstand the challenges he/she may face the following day. In this context, one of the primary tasks to be carried out in Afghanistan is to counter this common perception and the social attitudes associated with it.

People need to understand what child labour is and what it is not. Also, they need to appreciate the adverse effects of child labour on the child, his/her family, his/her community, and ultimately on the country. It must be made clear to them that child labour does not put an end to poverty but instead plays a major role in perpetuating such hardship.<sup>49</sup>

.....  
49 ILO, 2009.

Information containing this message needs to be propagated through electronic and print media so that it is inculcated into people's minds. In this way they will become aware that child labour is not a family issue only; it is also a communal issue, and a violation of human rights.

The role of influential public figures, such as players, artists, political and religious figures, is very vital in this regard. They are in constant interaction with the public and influence their opinion on many subjects. Hence, to reach the people at grass root level and to change their mentality, these individuals should be taken on board and invited to become partners for creating awareness.

The basic forms of awareness-raising include information provision, communication, education, and training, preferably with the direct involvement of the target audience. Even though awareness-raising refers to mobilization on the cognitive or emotional level, by increasing people's knowledge and skills, it can also contribute to practical changes. Awareness-raising activities include the following:

- Information workshops explaining the context of the project and its activities;
- Meetings with authorities, employers, religious leaders, community members, schools, etc.;
- Rallies and similar public demonstrations;
- Training workshops for stakeholders and beneficiaries;
- Public campaigns for action, such as to promote school enrollment or birth registration;
- Events to mark national or international days, such as the World Day against Child Labour, children's days, national holidays, etc.;
- Home visits to talk to parents and children;
- Children's camps and similar activities, including art, sports and other recreational activities;
- Community management groups for non-formal education centers and other education programmes;
- Poster campaigns, distribution of leaflets, flyers, stickers, etc.; and
- Media campaigns, including radio and television broadcasts.

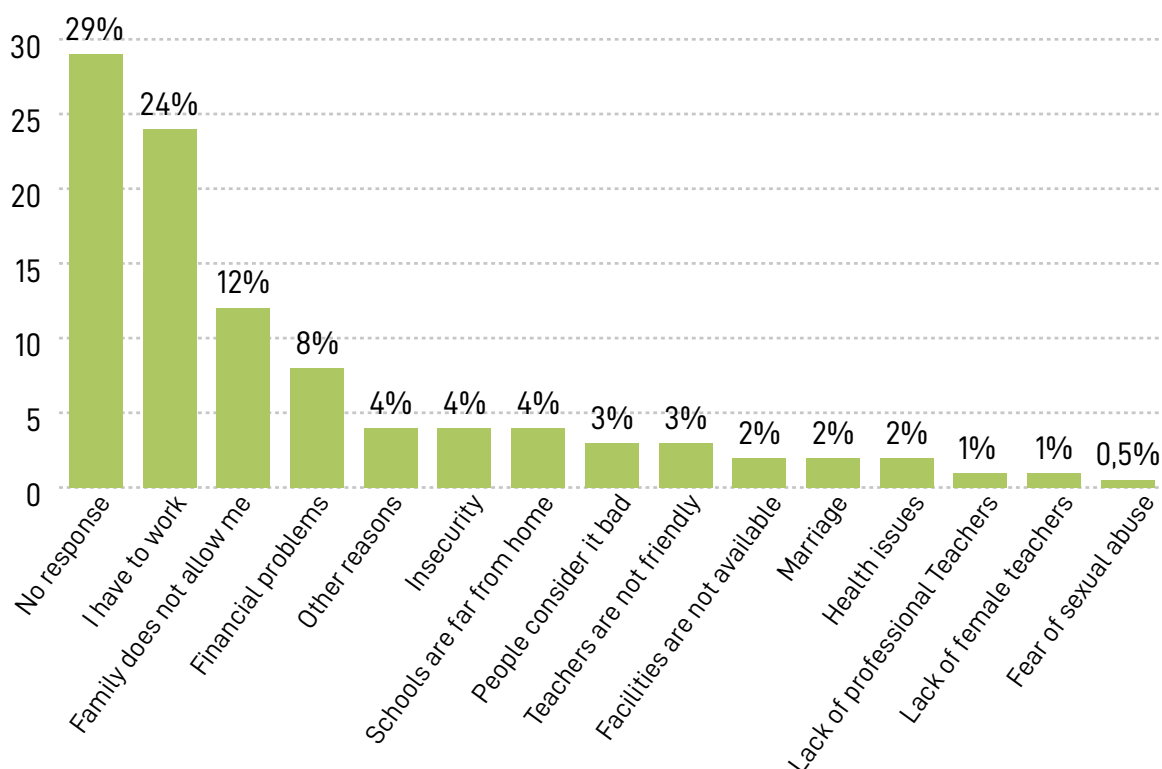
Several of these means can be used simultaneously, depending on the needs of the context where the particular campaign against child labour is being implemented. Awareness-raising will help to change the social attitude towards child labour, the culture of tolerating this phenomenon, the mindset that it is a way out of poverty, and most importantly challenge the idea that some types of work are such that they can only be performed by children.

## 6.2.3 Access to education

Education is universally acknowledged as a fundamental intervention in confronting child labour. Therefore, one of the major aims of the ILO since its foundation has been “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” (Treaty of Versailles, 1919).

According to “Education International”, universal access to free, compulsory, quality, basic education in line with SDG 4 is the foundation for the effective elimination of all forms of child labour. Expanding access to free, compulsory, quality, basic education is crucial to reducing child labour and are inter-related objectives. Child labour legislation is only realistically enforceable when children are required to attend school.

**Figure 6: Reasons for not attending school**



Source: AIHRC Report 2017

Furthermore, there is a clear correlation between increased access to education and the reduction of the number of children involved in child labour. Children with no access to education have little alternative but to enter the labour market, where they are often forced to work in dangerous and exploitative conditions. On the other hand, child labour is a major obstacle to achieving education for all. Out-of-school children are by and large children who are engaged in child labour.

All efforts should therefore be made to improve access to education and retention of children in schools because access to education remains the most effective strategy in eliminating child labour.

It not only provides opportunities for children to expand their knowledge; it also helps them to enhance their chance of further educational advancement which ultimately leads to safe and better working

conditions and income. To achieve this goal, the role of parents, employers and school systems including the syllabus and teaching approach cannot be overlooked.

According to the AIHRC Report 2017, out of 5,700 children interviewed, 38 per cent did not attend school; 24 per cent of them believed they had to work; 12 per cent indicated that their family did not allow them attend school; 8 per cent could not attend school due to poverty; 4 per cent had no school nearby to attend; 4 per cent believed the route to school was insecure while 2 per cent had married and hence had no choice but to leave school.<sup>50</sup>

Therefore, the GoIRA must prioritize education as one of the primary interventions in fighting child labour and strive for non-discrimination in access to education by opening schools for both boys and girls at the village level so that children do not complain of lack of educational facilities near to their homes or insecure routes.

In addition, the intervention has to make sure that the educational system and the syllabus conform to the needs of modern times as well as to the job market. By doing so, it would ensure that boys and girls are encouraged to study and subsequently find a respectable job in the future.

In order to achieve progress in the elimination of child labor, the Government needs to fight against the perception that work is more important than education and convince the families who prefer education over work that child labour is wrong. The strategy of raising awareness, explained above, can prove helpful in convincing the 24 per cent of children who deem work more important than education and the 12 per cent of families who force their children to work instead of going to school.

### 6.2.4 Reducing opportunities for child labour

In ensuring a child labour free Afghanistan, there are several key players that must be taken on board and should be encouraged to understand the seriousness of the situation overall and the need for taking positive steps. They include employers and trade unions.

The cooperation of **employers** is crucial in the fight against child labour, because they can help to ensure that their enterprises are free of child labour. They also play a powerful role in influencing those who hire children; often small enterprises in the informal economy. Moreover, they have the potential to help in the collection of data on the incidence of child labour in various sectors; to influence the development of appropriate national policies on the elimination of child labour; to partner with trade unions and NGOs in the design of relevant responses, particularly vocational and skills training for working children; and to promote public awareness on the wrongs of child labour and the rights of children.

Also, the principle of Corporate Social Responsibility which is "a reference to the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large" is vital in this regard.<sup>51</sup>

By virtue of this principle, the employers should not employ children when they, in their own conscience, believe that the environment is not appropriate or the work is hazardous for the child in any manner. Moreover, they should avoid discrimination on any ground and endeavor to arrange appropriate conditions of work for children in light work and apprenticeship when appropriate.

50 AIHRC, 2017.

51 World Business Council for Sustainable Development (1999).

As was discussed in the section on the causes of child labour, working children represent a source of cheap labour. This contributes to creating competition in the labour market which results in depression of wages and leads to the weakening of **trade unions'** ability to negotiate improvements in workers' wages and conditions of service. Therefore, it can safely be asserted that child labour contributes to unemployment of adults and that children engaged in child labour are used as unskilled labour, both of which are not favourable to adult workers.

Hence, if children are removed and rehabilitated, the job may be filled by an adult worker. There are many instances where the parent is unemployed, and the child is working. This is bad for both adult and child. It is the opposite of what should happen.

According to the ILO, all trade unions should adopt a clear strategic objective to contribute to the elimination of child labour.<sup>52</sup> Trade unions must discourage the tendency of looking at child labour as not "core business", or a "donor-driven" project. The basic ground for discouraging child labour is the fact that it jeopardizes the legitimacy of trade unions by weakening their bargaining power and depressing wages, while undermining working conditions and access to jobs for adults.

Trade unions should therefore adopt a clear, comprehensive and consistent policy and action plan in consultation with all workers. These policies may highlight the reasons why trade unions should support efforts to uproot child labour. They should emphasize education for all, promoting decent work through organizing and collective bargaining, provide employment, particularly for young people, and call for basic social protection floors, employment guarantee schemes and quality public services. The best slogans for Trade Unions should therefore be: "Children out of work and into school; adults into work!"

As a strategy in eliminating these factors, the GoIRA, in consultation with ACCI and NUAЕ, is required to obtain a commitment from employers and trade unions operating in Afghanistan that children will not be hired for performing labour. In addition, they will commit to launching projects where scholarships are given to the children of employees so that they will have the opportunity to receive quality education for a better future for Afghanistan. Through this strategy, families will therefore be less likely to have their children engage in child labour.

## 6.2.5 Economic policies to discourage child labour

Economic interventions often rely on government initiative and approval. This means, among other things, that the GoIRA needs to ensure that the fight against child labour is mainstreamed in development and poverty reduction policies.

Families that depend on the income generated by their children should be supported financially, by means of small family projects, and should also be assisted in the education of their children. Serious efforts must be made to increase employment opportunities so that families' dependence on their children's income is reduced.

For instance, it has been reported on national media that around 25,000 posts are vacant in different ministries in Afghanistan. The GoIRA must work hard to fill these vacancies and, in addition, endeavour to create more jobs. Moreover, it should make all possible efforts to create a demand for skilled labour. It is also noteworthy that unemployment and violence are interrelated issues.

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52 ILO, 2016b.

Importantly, there is no doubt that poverty plays a very major role in generating child labour. Empowering poor people through income generating projects will therefore contribute to eliminating child labour.

On an immediate basis, the Government may provide incentives such as the provision of free accessories that include notebooks, pens and pencils, and uniforms in cases where children require these so that their family does not need to spend money on these items. Experience in Afghan refugee camps in Pakistan has shown that free education as well as free books, notebooks, pencils, uniform, shoes, shoe polish, sweaters, and detergent soap were provided in schools to encourage the families to enroll their children in the school. Once the child got used to education and started to take a personal interest in the school, the family could not prevent him/her from going to school.

Moreover, school feeding programmes should be launched where students are provided with free meals. This will serve as an incentive and encourage families to enroll their children in school and as a result the families and children will choose school over work.

One of the arguments normally presented in favour of child work is that if these children do not work, their families will not be able to survive. Therefore, Conditional Cash Transfer (CCT) programmes should be considered so that the families do not rely on the income of their children since work jeopardizes their future.

Yet another method of reducing poverty as well as ensuring that children and their families opt for school over work is in the form of targeted subsidies provided in the sectors where children are most often hired as child labour. In the context of Afghanistan these sectors include brick kilns, carpet weaving, metal works, agriculture and services.

The GoIRA should seek assistance from the ILO, UNICEF, WFP, WHO and other NGOs in adopting and implementing such policies.

### 6.2.6 Strengthening the legal and supervisory framework

The legal framework needs to be updated and further enriched to provide answers to the questions commonly asked and to provide punishments where applicable. Many stakeholders in Afghanistan recommend that those responsible for exploiting children must be prosecuted and convicted for criminal offences. The Penal Code 2017 can prove helpful in this respect.

The Labour Code needs to be amended to accommodate child labour and WFCL in clearer terms, leaving no ground for interpretation by employers or government officials. The question of whether the Labour Code in its entirety applies to the private sector as well is one of the issues that currently receives no clear response from the MoLSA. This needs to be rectified.

In addition to the legal gaps discussed above, the problem in Afghanistan is that as of 2016, according to the US Department of Labor, only 32 labour inspectors have performed the critical job of inspection of 7.9 million workers in 34 provinces of the country. This means that one inspector per 246,875 workers has been performing his job, while according to the ILO, one inspector should be hired for a maximum number of 40,000 workers. In 2015, there were only 18 inspectors.

Currently, labour inspectors have little authority to impose penalties for child labour violations or to otherwise enforce child labour laws. Moreover, employers and business owners are not required to allow unannounced inspections; furthermore, MoLSA only inspects businesses that are registered. Neither the labour inspectors nor new employees receive training or a refresher course in relation to their rights, obligations and the protections available to them under the law.

However, the standard remains that labour inspectors need to be aware of the law and policy in Afghanistan, as well as the developments around the world and their local industrial and commercial environment. Moreover, labour inspectors should be aware of the measures which will help protect the workers, especially the working children. They need to be fully aware of their rights and duties, the good practices and lessons learned and be able to interact with workers and employers alike and obtain their cooperation in implementing the law both in letter and in spirit.

According to the ILO Labour Inspection Convention 1947 (No. 81), labour inspectors must remain impartial and should refuse to accept any other duties which may interfere with the effective discharge of their primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers.

This needs serious attention and improvement. The following steps should be taken to improve the working environment for children in Afghanistan:

- define the role of labour inspectors and train them on conducting inspection;
- seek and learn from the experience of international organizations and good practices; and
- support the Child Secretariat in every manner possible.

There is common agreement that MoLSA needs to reconsider its role in enforcing both the rights of employees and obligations of employers. As a watchdog for all the workers in Afghanistan, it cannot remain indifferent to the condition of workers, especially child labour and those who are victims of the WFCL.

## 6.2.7 Taking joint action

Another strategy in combating child labour is to share the responsibility to fight child labour in Afghanistan through a coordinated multi-stakeholder engagement. To this end, the establishment of a National Commission on Child Labour (NCCL) is vital. It should be comprised of members from the GoIRA, workers' and employers' organizations, civil society organizations, teachers and professors, influential figures, religious scholars and international organizations.

The NCCL will be mandated to play an active role in highlighting the problem of child labour, its consequences on the future of the Afghan nation, and come up with the solutions that can best tackle child labour, as well as to supervise the implementation of the policies and programmes adopted/devised in this respect.

Moreover, the NCCL should form working groups, adopt a cluster approach, and seek assistance from International Organizations and NGOs in conducting a national survey on child labour in all its manifestations so that it is able to recommend solutions. It should, in principle, discourage national and international NGOs from undertaking projects without prior discussion, and encourage them if necessary, to seek approval of the MoLSA and the NCCL mentioned above.

The NCCL should work on a National Child Labour Policy and a National Action Plan against Child Labour (NAP) that should be devised in compliance with the international labour standards and legal instruments to which Afghanistan has acceded.



As was elaborated in detail above, authorities in Afghanistan often lack an understanding of the core principles of labour and child labour and therefore, the NCCL will serve as the driver in reviewing the definitions and classifications that have been adopted, as well as updating the national definitions, standards and indicators in accordance with international standards. The Commission will also recommend changes to the Afghan laws wherever it is believed that the law is inadequate or lags behind the standards upheld by the ILO.

For the purpose of disseminating the information, success and lessons learned, the Commission will have to envisage making public its activities and overall performance to the people of Afghanistan. In doing so, it will have to update the information on its website and other publications, thereby bringing the information into the common sphere. It should also make serious efforts to amend the educational curricula in order to highlight the harmful effects of child labour, WFCL and TIP.

## 6.3 National Child Labour Policy

As discussed above, the approach of the GoIRA and MoLSA towards child labour indicates a serious flaw in that neither has adopted a National Child Labour Policy nor a NAP during the last 15 years, despite the unprecedented generous support offered to it by the international community especially the ILO, UNICEF and other international organizations working to eliminate child labour.

In addition, the MoLSA does not have any concrete statistics on child labour, forced labour, children involved in WFCL, or children working on the street in Kabul, let alone other provinces. As suggested in the previous section, the key task of adopting a National Child Labour Policy followed by a NAP could also be performed by the NCCL.

The ultimate objective of the Child Labour Policy should be to abolish child labour in all its forms across the country. In the short run, however, the Government may focus on abolishing the WFCL, in view of the high incidence of child labour currently being generated by the economic needs of families and reinforced by the culture of poverty. An enabling legislation in this regard would be the best instrument to give life to the policy, backed by effective enforcement.

Moreover, as schools are the best place for children, all identified working children should be brought into the fold of the education system, and special teaching methodologies should be developed to compensate for the lost years of education. The provision of food, stipends, health and shelter homes should be made conditional to ensure their continuous attendance and to prevent dropouts.

Recognizing the fact that mere legislative and administrative action will not suffice, the Policy should ensure that the GoIRA extends the benefits of social assistance programmes to the families of children involved in child labour in order to reduce their poverty. Furthermore, it should ensure that the GoIRA and MoLSA use all possible means to build a universal consensus against the use of child labour.

The Policy also needs to ensure that the GoIRA strengthens the institutional capacity of the labour inspectorate at the national, provincial, district and sub-district level by posting an adequate number of labour inspectors with defined jurisdictions and by allocating the necessary financial resources for this purpose.

A joint action plan in this regard needs to be developed at national, provincial and district level for a focused and synergetic engagement aimed at the elimination of child labour. The NAP should be designed in order to achieve the following strategic objectives within ten years of their adoption:

1. Create a conducive legal and policy environment through mainstreaming child labour issues in all national and development policies and programmes, laws and regulations within two years of the adoption of this NAP;
2. Build and strengthen the institutional, technical, and human resource capacity of persons and entities working towards eliminating child labour;
3. Combat child labour through prevention, withdrawal, rehabilitation and re-integration of working children and their families; and
4. Improve the knowledge base related to child labour for informed policy and programme development.

The following stakeholders should be involved in the consultation on the Policy as well as the NAP and must enter into a partnership/collaboration in the fight against child labour in Afghanistan:

### **6.3.1 The Government of the Islamic Republic of Afghanistan (GoIRA) and the Ministry of Labour, Social Affairs, Martyrs and Disables (MoLSA)**

It is important to appreciate that the GoIRA, like any other government in the world, has a distinctive role to play in the elimination of child labour. It needs to adopt without delay a framework for the abolition of child labour in all its forms.

Currently, as has been asserted on numerous occasions above, some of the entities mandated to fight child labour are struggling to distinguish between child labour, child work and TIP. This indicates that the earlier strategies and plans have proved to be inefficient.

This gap can be filled through establishing the NCCL, as discussed in the preceding section, and enabling it to perform, *inter alia*, the tasks listed above through the promulgation of a law.

### **6.3.2 Employers**

Under the principle of corporate social responsibility, employers have obligations to perform towards the community from whom they earn profits and are therefore required to respect the authority of the government by adhering to applicable labour laws and regulations in force for the time being.

It is noteworthy that a government's inability to enforce the laws, for whatever reason, does not relieve the people including employers from respecting the laws and their obligations. In other words, employers should not exploit such an opportunity to evade liabilities.

### 6.3.3 Trade unions

As far as trade unions are concerned, they are given the title of defenders of the oppressed, which certainly include children involved in child labour. Apart from this task, they have their own interest involved in the fight against child labour, not least the risk that the employment of children increases adult unemployment (see Section 6.2.4.).

### 6.3.4 Labour inspectors

Traditionally, governments lead efforts to eliminate child labour by taking steps on several major fronts, namely ensuring protective legislation and enforcing it, providing universal basic education, and implementing programmes for awareness raising to bring about changes in the social climate.

Clearly, labour inspectors play a vital role in both of these aspects. They endeavour to ensure that the laws and regulations are implemented and strive to create awareness among the public especially among employers. Therefore, labour inspectors are key partners in the fight against child labour.

### 6.3.5 Others

Since the problem of child labour affects the lives of so many people and families in one way or another, one of the most effective and sustainable approaches is to mobilize communities to work toward its elimination.

Hence, in addition to the above entities and groups, children themselves, parents, NGOs and INGOs, academia, religious influential personalities, and civil society organizations can participate in taking action and uprooting child labour which is a problem for everyone.

## Devising a National Child Labour Policy: Group exercise

 1:30 hours

 **Note for the Facilitator:**

**Step 1:** Ask the participants to work on identifying the potential stakeholders for a draft National Child Labour Policy and to define their role in the process.

**Step 2:** Ask the participants to randomly form small groups of 4 to 6 persons to discuss and finalize their lists into one list with details on the role of each proposed stakeholder. Make sure the participants understand the scope of a policy and the issues it has to cover.

One participant from each group is then invited to write his/her group's list of stakeholders and the roles assigned on the flipchart paper for further discussion. Ask the leader to put the flipchart paper on a wall in the room.

**Step 3:** Work with the participants and discuss the stakeholders, their roles and the method of their involvement, strength and weakness, if any, in the proposed policy.

By the end of this exercise, the participants should have developed a comprehensive National Child Labour Policy.





# CHAPTER 7

## Conclusion

As laid out at the beginning, the aim of this Training Manual has been to equip the trainees with the knowledge and skills to combat all forms of child labour, including its worst forms, in Afghanistan.

Therefore, the facilitator should reserve time at the end of the training workshop for a joint reflection as to whether the objectives have been achieved, and to share feedback and questions. Moreover, the participants should be given the opportunity to express their ideas for devising practical steps forward, as individuals, organizations, and potentially partnerships or networks.

All workshop materials should be made available, and the organizers of the training should clearly communicate any follow-up action in terms of rolling out the training.



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The Penal Code of Afghanistan, 1976

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The Comprehensive Child Act, 2017

### B. National policies

GoIRA, Afghanistan National Action Plan, 2015-2022

MoLSA, National Strategy for Street Working Children, 2011

MoLSA, Hazardous Work List, 2014

MoLSA, National Labour Policy, 2012

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### C. International instruments

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# ANNEXES



## Annex 1: CASE STUDY: Eliminating harmful child labor in the carpet industry The Obeetee module

### 1. The company and the context

Obeetee, a leading Indian manufacturer and exporter of hand-knotted and hand-tufted woolen carpets and floor coverings, was established in 1920. It is the world's first licensee for hand-made carpets and the first brand partner of "Wools of New Zealand" in the handmade carpet industry. The company directly employs over 600 workers and contracts some 10,000 artisans across north India. Its headquarters are in Mirzapur.

In the late 1970s and early 1980s, the Indian carpet industry experienced a sharp increase in demand for hand-knotted carpets. Hand-knotted carpets require intensive labour and much more time than their machine woven

counterparts. Rising demand naturally led to an increase in the demand for weavers. This led to an increase in the employment of children both in factories and at home where the family often serves as a production unit.

In 1986, the Indian Parliament passed the "Child Labour (Prohibition & Regulation) Act," which prohibits the use of children under the age of 14 in carpet weaving except on the looms of their parents or siblings.

The enactment of this legislation, combined with the growing negative images associated with the practice and the realization of the harmful aspects of child labour, led Obeetee to take action. Obeetee took the corporate decision to relieve children from its existing workforce and prohibit them from being recruited by the company or its suppliers.

## 2. Obeetee's challenges

### Monitoring difficulties in the informal sector

Implementing Obeetee's decision proved a challenge because the production of hand-knotted carpets is undertaken primarily in the informal sector. Independent loom owners in thousands of villages weave in or near their homes. Obeetee carpets were woven on more than 4,000 looms in about a thousand villages. Continuous monitoring of looms as well as suppliers to ensure child-free weaving of carpets was impossible. How far could Obeetee extend the scope for monitoring harmful child labor in its supply chain?

### Challenging cultural norms

Combating child labour was further complicated by the fact that in rural India child labour is not considered an evil, but rather a way to avoid poverty. Children often contribute significantly to household income, and this income is sometimes a matter of family survival. In this context, was it fair for Obeetee to deprive poor families of these essential earnings?

Furthermore, the decision about whether a child works rests with the head of household, usually the father. Would Obeetee's monitoring of child labour be interpreted as interfering in private family decisions?

### Loss of workforce and increased costs

Removing children from its labour force would have a direct impact on the company's bottom line. How could Obeetee maintain its profits and high level of quality while losing a large part of its workforce? Would the company be able to recruit skilled adults as replacements and would this further increase costs by having to train adults to weave carpets? These are crucial issues that Obeetee continues to grapple with.

### Lack of reliable information

Since birth certificates and hospital records are difficult to furnish in rural India, Obeetee managers often have to rely on physical appearance and interviews when judging a young person's eligibility for employment.

## 3. Obeetee's approach

### Changing the culture of work and building awareness in the community

The first step in Obeetee's approach was to change the thinking about child workers within the company and among its suppliers. To this end, the company launched various awareness programmes. A major campaign was initiated to create awareness about child labour in villages where the carpets were woven. Obeetee executives went from one village to another informing the loom owners and heads of households, in the local language, of the main provisions of the new Child Labour Act. They emphasized the severe penalties for the use of child labour. They underscored the commitment of Obeetee not to buy carpets made by children.

### Instituting contractual provisions

The managers of Obeetee required written assurances from loom owners that they would not employ children. For each production order Obeetee issued, loom owners were required to sign a form that explained the provisions of the law and committed them not to employ children below the age of 15 years (even though the minimum age for employment in India is 14).

## Blacklisting of suppliers

The company informed all loom owners in writing that any loom owner found employing children in the weaving of Obeetee carpets would lose their business and be blacklisted from doing any future business with company.

## Increasing wages

Obeetee increased wages significantly as an incentive to loom owners to weave Obeetee carpets without employing child labour. This was considered a radical and questionable move by many in the industry. This step increased the costs for Obeetee in the short run; however, they believed this would be compensated by a boost in reputation. Currently, Obeetee is earning more profits than ever before, lending credence to the view that short- term costs can foster long- term profits.

## Consolidating production and supply chain

Obeetee recognized that its primary constraint in preventing the incidence of harmful child labour lay in the company's inability to monitor its dispersed supply chain. To tackle this problem, Obeetee instituted a comprehensive system for production and monitoring looms. It established a network of official "depots" across the weaving area, which is predominantly rural. Instead of working in their homes, weavers would come to work at these established depots. This system greatly assisted in maintaining normal and healthy work hours, but, importantly, looms could more readily be monitored for the presence of children by Obeetee staff. Currently Obeetee carries out its production in 21 depots.

## Monitoring and inspection

Each depot employs 2-4 loom inspectors. The loom inspectors continuously inspect and monitor the depot and report their findings once every 15 days to the Obeetee manager in charge

of the depot. Moreover, the manager conducts unscheduled checks to verify the reports of the loom inspectors. Each depot manager is required to provide a monthly certificate to headquarters at Mirzapur verifying that no children are employed in the weaving of Obeetee's carpets.

## Instituting a child labour cell for complaints and inspection

Obeetee has created a Child Labour Cell consisting of senior Obeetee executives who are based at the company headquarters. The Cell acts on complaints from depots relating to child labour. The cell features vehicles for executives to access far-flung areas and conduct unannounced inspections at the depots.

## Working in partnership with NGOs and Government agencies

As part of its corporate responsibility, Obeetee seeks to ensure that children removed from Obeetee looms do not end up simply working under similar or worse conditions for other employers. To this end, Obeetee makes contributions to the Child Welfare Fund of the Carpet Export Promotion Council of India (CEPC), a government-sponsored industry association. A quarter per cent from the sale value of each carpet is donated to this CEPC Child Welfare Fund. The Fund offers various child welfare programmes, including schools that provide free education, monthly stipends, mid-day meals, vocational training and health care to children.

## Registering each carpet for public and independent inspections

All loom owners are required to register with the CEPC. This helps Obeetee to provide its customers with the Registration Number of the loom used to weave each carpet. A customer can thus trace the carpet back to its loom and, if necessary, an independent inspection of the loom can be conducted.

## Labeling and certification

Obeetee subscribes to the Kaleen Label, which is the labeling programme of the CEPC. Kaleen represents the commitment of the Indian carpet industry to eradicate child labour and to promote welfare measures for the education and rehabilitation of children taken out of carpet

weaving. The major feature of the Kaleen scheme is a loom monitoring system based on random inspections by an independent agency. Other aspects include: the registration of carpets looms and the promulgation of a Code of Conduct requiring that no illegal child labour be used in the manufacturing of carpets. There are severe penal provisions for breach of the Code of Conduct.

*Source: IFC Environment and Social Development Department, Good Practice Note in the Workplace and Supply Chain Addressing Child Labor 2002.*



# ANNEXES



## Annex 2: Proposed workshop timetable

The following model programme can serve as a basis for planning a training workshop based on this Manual.

TIME	DAY 1	DAY 2	DAY 3
09:00-10:00	<b>Welcome and Introduction:</b> Objectives and overview	<b>Session 3b:</b> Consequences of child labour	Presentation of group work
10:00-11:15	<b>Session 1:</b> Introduction to child labour	<b>Session 4:</b> Worldwide commitment to end child labour	<b>Session 6a:</b> Intervention strategies
11:15-11:45	<b>TEA BREAK</b>		
11:45-13:00	<b>Session 2:</b> Child labour in Afghanistan	<b>Session 5a:</b> The national legal framework	<b>Session 6b:</b> National child labour policy
13:00-14:00	<b>LUNCH BREAK</b>		
14:00-15:30	<b>Session 3a:</b> Causes of child labour (including group work)	<b>Session 5b:</b> The national policy framework	<b>Group Exercise:</b> Devising a national child labour policy
15:30-15:45	<b>TEA BREAK</b>		
15:45-17:00	Presentation of group work	<b>Group exercise:</b> Designing an intervention strategy	Recommendations and way forward




# TRAINING MANUAL

ON CHILD LABOUR IN AFGHANISTAN

## **Fundamental Principles and Rights at Work Branch (FUNDAMENTALS)**

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ISBN 978-92-2-132320-4



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