

# **Liberia Child Labor Manual and Rapid Reference Cards**

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Lawyers Without Borders

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CLEAR II

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# Child Labour: Hazardous Work Rapid Reference Card™ • Liberia

## ILO CONVENTION NO. 182 ON THE WORST FORMS OF CHILD LABOUR (1999)

### ABOUT THE CONVENTION

**Adopted by:** International Labour Organization (ILO)

**Full name:** Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

**Effective:** 19 November 2000 **Ratified by Liberia:** 02 June 2003

### DEFINITION OF TERMS

**“Child”** means any person **under the age of 18** ..... 2  
**“Worst Forms of Child Labour”** (WFCL) include:

- All forms of **slavery** and similar practices, such as child trafficking, debt bondage, compulsory labour, and forced recruitment of children into armed conflict ..... 3(a)
- Using, procuring, or offering a child for **prostitution**, or for producing **pornography** or similar performances ..... 3(b)
- Using, procuring, or offering a child for **illicit activities**, particularly the production or trafficking of **drugs** ..... 3(c)
- Work likely to harm the **health, safety, or morals** of children ..... 3(d)

### WORST FORMS OF CHILD LABOUR

The types of work likely to harm the health, safety, or morals of children shall be determined by national laws or competent authority, taking relevant international standards into consideration ..... 4(1)

- The list of these types of work shall be periodically examined and revised as necessary ..... 4(3)
- In ratifying ILO C182, Liberia has committed to taking measures to:
- **Prevent WFCL** ..... 7(2)(a)
  - **Remove** children from WFCL and provide for their **rehabilitation** and social integration ..... 7(2)(b)
  - Ensure **free education** and, when possible, vocational training for children removed from WFCL ..... 7(2)(c)
  - Identify and reach out to **special risk** children ..... 7(2)(d)
  - Consider the special situation of **girls** ..... 7(2)(e)

## ILO RECOMMENDATION NO. 190 ON THE WORST FORMS OF CHILD LABOUR (1999)

### ABOUT THE RECOMMENDATION

This Recommendation is intended to supplement the provisions of Convention No. 182 (see above), to which Liberia is a party.

### HAZARDOUS WORK

In determining WFCL, consideration should be given to work:

- That exposes children to physical, psychological, or sexual **abuse** ..... 3(a)
- Done **underground, underwater**, at dangerous **heights**, or in **confined** spaces ..... 3(b)
- Involving dangerous **machinery, equipment, and tools**, or the manual handling or transport of **heavy loads** ..... 3(c)
- In an **unhealthy environment**, e.g. those that may expose children to hazardous substances or processes, or to temperatures, noise levels, or vibrations damaging to their health ..... 3(d)
- Under particularly **difficult conditions**, e.g. long hours, night work, or unreasonable confinement ..... 3(e)

For these hazardous types, national laws may authorize work from the **age of 16 if health, safety, and morals are protected, and specific instruction or training is provided** ..... 4

### IMPLEMENTATION

The following WFCL should be deemed criminal offenses:

- All forms of **slavery** or practices similar to slavery ..... 12(a)
- Involving a child in **prostitution** or **pornography** ..... 12(b)
- Involving a child in **illicit activities**, particularly drug production or trafficking ..... 12(c)

Member states should **prosecute and register** those involved in the offenses listed above ..... 11

National laws or the competent authority should determine the **persons to be held responsible** in case of noncompliance with national provisions against WFCL ..... 10

Member states should ensure that **penalties are applied** for violations of national provisions against WFCL, e.g. special supervision of enterprises that have used WFCL and, in cases of persistent violation, temporary or permanent revoking of permits to operate ..... 13-14

### HAZARDS COMMON TO MANY SECTORS

- Long hours
- Sharp objects
- Prolonged outside exposure
- Strong or toxic chemicals
- Heavy loads
- Dusty environment
- Isolation
- Exposure to loud noises or vibrations
- Exposure to sexual abuse or exploitation

Citation numbers within a section refer to articles of the document discussed under that section.

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## SECTORS AND ACTIVITIES HIGHLY SUSCEPTIBLE TO HAZARDOUS CHILD LABOR

### SERVICES

17.4% of working children aged 5-14 in Liberia work in the service sector

Specific activities:

- **Domestic work**
- **Work in commercial services**, e.g. entertainment or dining
- **Street work**, e.g. vending, begging, hawking goods

Hazardous tasks in these areas include:

- **Household chores and maintenance** involving sharp equipment or tools, and/or toxic chemicals
- **Cleaning** with strong or toxic chemicals
- **Cooking** with sharp blades, hot pans, stoves, or other appliances inappropriate for the age or strength of the child
- **Gardening**
- **Use of a lawnmower, tractor or related appliance or vehicle**
- **Gathering fuel, water, or groceries**
- **Scavenging**
- **Garbage collection**
- **Street trading or begging**
- **Work in restaurants** involving dishwashing, cleaning floors or scrubbing toilets
- **Work in lewd shows, cabarets, dance halls, bath houses, massage clinics or escort services**
- **Entertainment**, such as bartending, massaging, dancing and / or waiting tables in establishments serving alcohol
- **Dealing or taking bets in casinos**

### INDUSTRY

4.2% of working children aged 5-14 in Liberia work in the industry sector

Specific activities include:

- Mining for **diamonds** and **gold**
- Cutting and crushing **stone**
- **Construction**

Hazardous tasks in these industries include:

- **Tunnelling**
- **Digging or hand-picking ore, slabs, rock, or sand**
- **Crushing and amalgamating, sieving, washing, and sorting stone**
- **Removing waste or water from mines**
- **Selling goods and services to miners**
- **Mineral extraction and quarrying**
- **Lead extraction**

### INDUSTRY CONT.

- **Painting**
- **Work with earth movers**
- **Work with nail pistons**
- **Welding**
- **Engineering**
- **Freezing materials**
- **Drilling**
- **Construction, demolition or excavation**
- **Carpentry**
- **Drilling**
- **Maintenance of machinery used for any of the above.**

### AGRICULTURE

78.4% of working children aged 5-14 in Liberia work in the agricultural sector

Specific activities include:

- Production of **rubber**
- Production of **charcoal**
- **Farming** activities, e.g. production of cocoa, coffee, or cassava and / or the slaughter of animals

Hazardous tasks in these industries include:

- **Carrying heavy loads** unsuitable to the child's age and / or physical development
- **Weeding and harvesting**
- **Caring for and/or slaughtering farm animals**
- **Hunting wildlife**
- **Herding cattle**
- **The processing and preservation of fish and meat products**
- **Work in any way connected to fishing**, including deep-sea fishing and diving to chase fish into nets.
- **Handling, mixing, or spraying agrochemicals**, including pesticides, herbicides and insecticides
- **Climbing trees**, e.g. to trim the trees, to pick fruit or to collect latex from rubber trees
- **Using sharp or motorized farm tools**
- **Driving tractors or other farm machinery**
- **Tilling soil**
- **Work involving woodworking machines**, circular saws, guillotine saws, files, grinders or mixers
- **The installation, excavation, cleaning, or repair of a well**
- **The preservation of food or other perishables by freezing**
- **Adding chemicals to masticated rubber**
- **Vulcanizing rubber at high temperatures**
- **Arduous outdoor work** involving heavy lifting, pulling, pushing or any other type of related labor

Sources: ILO International Programme on the Elimination of Child Labour, "Children in hazardous work: What we know, what we need to do" (2011); United States Department of Labor, "2015 Findings on the Worst Forms of Child Labor"

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# Child Labour: Hazardous Work Rapid Reference Card™ • Liberia

## INTERNATIONAL EXAMPLES OF HAZARDOUS WORK REGULATION FOR CHILDREN

### HOURS REGULATION

#### Education

**USA:** Workers under the age of 16 must have hours confined to periods that will not interfere with their schooling  
.....*Fair Labor Standards Act 29 U.S.C. §203(1)*

**Norway:** Children who are under 15 years of age or are attending compulsory education shall not work between 20:00 and 06:00  
.....*Working Environment Act §11-3(2)*

#### Health / Wellbeing

**Norway:** Workers between 15 and 18 years of age who are not attending compulsory education shall have an off-duty period of at least 8 hours, including the time between 23:00 and 06:00  
.....*Working Environment Act §11-3(2)*

**Liberia:** A child who has not yet attained the age of 16 years may not be employed for more than 7 hours in any day, or for more than 42 hours in any working week... *Decent Work Act § 21(5)*

**India:** No child shall be permitted to work between 19:00 and 08:00, to work overtime, or to work in an establishment on a day when she or he has already been working in another establishment.....*Act No. 61 of 1986, §7*

### MINIMUM AGE

#### Education

**Ghana:** Minimum age for a child to do light work is 13 years. Light work is defined as work that is not likely to be harmful to the child's health or development and that does not affect her or his capacity to benefit from school work.....*Act 560, §90*

**Sierra Leone:** Minimum age for a child to begin an apprenticeship is the later of 15 years or completion of basic education .....*The Child Rights Act, §135*

#### Health / Wellbeing

**China:** Recruitment of workers under the age of 16 is illegal, under penalty of a fine per child worker per month of employment, repatriation of child workers at employer's expense, and possible revocation of business license.  
.....*Regulations Banning Child Labour, Art. 2*

**Ghana:** Minimum age for hazardous work is 18 years. Work is defined as hazardous when it poses a danger to the health, safety, or morals of a person.....*Act 560, §91(1-2)*

## LIMITATIONS ON TYPES OF BUSINESS

### Vulnerability to Sexual Exploitation

**Liberia:** Children are prohibited from work that exposes them to physical, psychological or sexual abuse.  
.....*Decent Work Act § 21(4)*

**Ghana:** Hazardous work includes work in places where a person may be exposed to immoral behaviour, e.g. bars, hotels, or places of entertainment. ....*Act 560, §91(3)(f)*

**Korea:** Entertainment establishments are prohibited from hiring persons less than 19 years of age  
.....*Juvenile Protection Act, Art. 5, 24, 50*

### Exposure to Dangerous Substances

**Liberia:** Children are prohibited from work that exposes them to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health.....*Decent Work Act § 21(4)*

**Ghana:** Hazardous work includes industries where chemicals are produced or used .....*Act 560, §91(3)(d)*

**Nepal:** No one may engage a child in the sale, distribution, or smuggling of intoxicating substances .....*Rules 2062, Sch. 1E*

**Cote D'Ivoire:** Children may not work with agricultural chemicals, veterinary products, septic tanks, or household refuse.....*Arrêté n° 2017-017, Art. 7*

### Dangerous Environments

**Cote D'Ivoire:** Children may not work in forging, dyeing, construction, or leather tanning.....*Arrêté n° 2017-017, Art. 7*

**Ghana:** Hazardous work includes going to sea, mining, and quarrying.....*Act 560, §91(3)(a-b)*

## LIMITATIONS ON TYPES OF WORK

### Dangerous Environments

**Costa Rica:** Work in which a minor is responsible for his / her own safety or the safety of others is prohibited.....  
.....*Childhood and Adolescence Code, Art. 94*

**Nepal:** No child may work underground, underwater, or at excessive height. ....*Rules 2062, Sch. 1E*

**Jordan:** Work in dusty, noisy, or extremely hot or cold environments is forbidden.....*Labor Code No. 8 of 1996*

### Dangerous Tools or Heavy Loads

**USA:** Minors are prohibited from operating power-driven machines.....*29 CFR Part 570, Subpart E*

**Liberia:** No child may work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads. ....*Decent Work Act § 21(4)*

**Ghana:** Hazardous work includes portage of heavy loads. ....*Act 560, §91(3)(c)*

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# Child Labour: Light Work Rapid Reference Card™ • Liberia

## ILO CONVENTION 138 ON MINIMUM AGE

### MINIMUM AGE FOR LIGHT WORK

Notwithstanding the general minimum age for employment, Member States may permit persons 13 to 15 years of age to engage in "light work".....7(1)

Less developed nations may adopt regulations permitting persons 12 to 14 years of age to engage in light work.....7(4)

### LIGHT WORK

Light work is work that:

- Is not likely to be harmful to a child's health or development; and.....7(1)(a)
- Does not prejudice the child's attendance at school or participation in vocational training programs.....7(1)(b)

### DECENT WORK ACT

Children at least **13 years of age** may perform light work

- For up to 2 hours per day
- For no more than 14 hours per week

**Light work** is work that:

- Is not likely to be harmful to a child's health safety, moral or material welfare or development; and
- Will not prejudice the child's attendance at school or their capacity to benefit from instruction.....Decent Work Act (2015) 21.3

## INTERNATIONAL EXAMPLES OF PERMISSIBLE LIGHT WORK BY SECTOR

### LIGHT DOMESTIC WORK

**Guinea:** Apprenticeships as a kitchen boy, kitchen assistant, errand boy, babysitter.....*Elimination of Child Labor, Protection of Children and Young Persons Art. 419*

**UK:** Domestic work in hotels and other establishments offering accommodation, babysitting.....*Guidance on the Employment of Children at 7, 18*

### AGRICULTURAL WORK

**Democratic Republic of the Congo:** Harvesting grain, leaves (vegetables) and fruits except bananas and coconuts unless the harvesting is done on the ground; manual deseeding of fruits and grains; sorting vegetables; preparing a nursery; caring for small and barnyard animals.....*Ministerial Order No. 12 of 2008*

**Ivory Coast:** Measure, sort, dry, collect, plant, cut strip, harvest, fruits, vegetables, grains, and firewood.....*Order No. 2017-016 MEPS/CAB of June 2, 2017 Art. 2*

### COMMERCIAL SETTING

**Democratic Republic of the Congo:** Selling newspapers and peddling that does not include transporting heavy merchandise; surveillance practiced by orderly bellboys, doormen, and day guards.....*Ministerial Order No. 12 of 2008*

**Ivory Coast:** Selling products in shops (except alcohol); arrange light goods in store aisles (except flammable goods); waiting or cleaning tables (except alcohol); washing dishes.....*Order No. 2017-016 MEPS/CAB of June 2, 2017 Art. 2*

**UK:** Delivery of newspapers, shop work including shelf stacking, hairdressing salons, office work or work in a restaurant or café (provided work is not done a kitchen).....*Guidance on the Employment of Children at 7*

### OTHER WORK

**Democratic Republic of the Congo:** Basketwork.....*Ministerial Order No. 12 of 2008*

**Ivory Coast:** Ginning and spinning.....*Order No. 2017-016 MEPS/CAB of June 2, 2017 Art. 2*

**India:** Assisting family in non-hazardous work after school hours or during school breaks.....*Child Labour Prohibition and Regulation Amendment Act of 2016 Sec. 5*

Sources: The Department for Children, Schools and Families (UK), "Guidance on the Employment of Children" (2009).

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# Minimum Age for Employment: International and Domestic Law

## Rapid Reference Card™ • Liberia

### MINIMUM AGE REGULATION

Liberia's minimum age for employment is **15 years**.....DWA § 21.2

#### ILO Convention No.138

- Liberia has not ratified the ILO's Convention No. 138 on Minimum Age ("C138")
- C138 provides that less developed nations may initially establish a minimum working age of 15, and that they should aim to raise this to 16 years.....I-R II(7)
- Member States must establish the same minimum age for employment in all sectors.....I-R II(6)

### EXCEPTIONS TO THE CONVENTION

- C138 provides that certain exceptions may be made for participation in artistic performances or limited categories of employment in which special and substantial application problems arise.....I-C 4
- Persons 13 to 15 years of age may be engaged in "light work", which is work that is not likely to be harmful to their health or development and not likely to prejudice their school attendance or participation in certain vocational orientation or training programs.....I-C 7(1)

### SCOPE OF THE CONVENTION

- C138 does not apply to work done by: children in training institutions for general, vocational or technical education....I-C 6
- **Despite any exception, ILO C138 shall be applicable at a minimum to:** mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; plantations and certain specified agricultural undertakings.....I-C 5(3)

### WORK AGES UNDER C138

	Ordinary Work	Light Work	Hazardous Work
<b>General rule</b> or less than the age of completion of compulsory schooling	15 years	13 years	18 (16 provided that young persons are fully protected and have been given adequate training)
Developing Countries	14 years	12 years	18 (16 provided that such young persons are fully protected and have been given adequate training)

### CONDITIONS OF EMPLOYMENT

C138 provides that special attention should be given to:

#### Fair Remuneration

- All women and men are entitled to equal remuneration, which means remuneration established without discrimination based on sex, for work of equal or comparable value.....DWA, § 2.5

#### Limitations and Restrictions of Working Hours:

- Under 16 years of age: no employment for more than 7 hours in any day, or more than 42 hours in any working week.....DWA, § 21.5

#### Rest Periods

- One or more daily rest periods totalling at least one hour. Prohibited to work over four consecutive hours .....DWA, § 21.5
- One daily rest period of at least twelve consecutive hours between ending and recommencing work.....DWA, § 17.9
- Weekly rest period of at least 36 consecutive hours which unless otherwise agreed in writing, shall include Sunday.....DWA, § 17.10

#### Annual holiday

- Children shall be entitled to the same annual leave as adults and to a further period of annual leave equivalent to the number of working days in one week.....DWA, § 21.5

#### Social Security Coverage

- Ten days paid sick leave for every year (accumulative throughout service) at same remuneration they would have received had they worked on that day....DWA, § 19.2
- Three single days of paid sick leave in any period of twelve month's service with their employer, without the requirement to establish that they were unwell and for that reason unable to attend for work.....DWA, § 19.3

(cont'd on next page)

#### KEY:

**I-C** refers to ILO Convention No. 138 On The Minimum Age For Admission To Employment

**I-R** refers to ILO Recommendation No. 146 Concerning Minimum Age For Admission to Employment (1973)

**L-DWA** refers to Liberia's Decent Work Act (2015)

# Minimum Age for Employment: International and Domestic Law

## Rapid Reference Card™ • Liberia

### CONDITIONS OF EMPLOYMENT (CONT'D)

#### Liability for medical treatment

- Employer shall be liable for the payment of the reasonable expenses of medical treatment for any employee's work-related injury.....DWA, § 31.6

#### Duty of employer to formulate safety and health policy

- Duty of every employer or self-employed person to develop, as appropriate in consultation with employees, and with such other persons as the employer considers necessary, a policy relating to occupational safety and health.....DWA, § 25.2(a)
- The policy shall enable effective cooperation between the employer and the workers in promoting and developing measures to ensure the workers' safety and health and the organization and arrangements for the time being in force for carrying out that policy.....DWA, § 25.2(b)
- The policy shall provide adequate mechanisms for reviewing the effectiveness of the measures or the redesigning of the said policy, whenever appropriate.....DWA, § 25.2

### HAZARDOUS EMPLOYMENT

- Minimum age for employment likely to jeopardize the health, safety or morals of young persons ("**hazardous employment**") shall not be less than **18 years** ..... I-C 3(1)
- Such employment **may be permitted at age 16** where the health, safety and morals of young persons are protected and adequate instruction/training is provided ..... I-C 3(3)
- Such types of employment shall be determined by national laws, regulations or competent authority.....I-C 3(2)
- If minimum age for hazardous employment is below 18 years, immediate steps should be taken to raise it to 18.....I-R III(9)
- C138 provides that, in applying Art. 3 of C138, international labor standards should be considered, and the list should be regularly re-examined and updated if necessary.....I-R III(10)

#### Definition of 'Child'

A child is a person under the age of 18..... DWA, § 1(4)(c)

Where a minimum age is not immediately fixed, one should still be established for types of work that are hazardous ..... I-R III(11)

#### Types of work that are prohibited for children

The following types of work are prohibited for children:

- Work that exposes children to physical, psychological or sexual abuse.....DWA, § 21.4(a)(i)

(cont'd)

### HAZARDOUS EMPLOYMENT (CONT'D)

- Work underground, under water, at dangerous heights or in confined spaces.....DWA, § 21.4(a)(ii)
- Dangerous machinery, equipment and tools, or involving the manual handling or transport of heavy loads.....DWA, § 21.4(a)(iii)
- Work in an unhealthy environment which may, for example,
- Work that exposes children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health.....DWA, § 21.4(a)(iv)
- 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.....DWA, § 21.4(a)(v)

The Minister shall make regulations:

- Specifying further the types of work that may be prohibited to children under this section; .....DWA, § 21.4(b)(i)
- Identifying hazardous processes, temperatures, noise levels, or vibrations damaging to children's health.....DWA, § 21.4(b)(ii)

### ENFORCEMENT

C138 provides that necessary measures shall be taken to ensure the enforcement of the Convention..... I-C 9(1)

Special attention should be given to:

- Enforcement of provisions on hazardous types of work; and
- Prevention of employment of children during hours when instruction is available, in so far as education or training is compulsory ..... I-R V(15)

Member States should strengthen as necessary labour inspection and related services, for instance through special training of inspectors..... I-R V(14)(1)(a)

Member States shall prescribe the registers that shall be made available by the employer, which shall contain the names and ages/dates of birth, certified wherever possible, of persons who employees who are under 18 years of age..... I-C 9(3)

For verification of ages, Member States should:

- Maintain an effective system of birth registration,
- Require employers to keep and make available relevant records, and
- Issue licenses to children working in situations where checking employer records is impracticable..... I-R V(16)

An employer must:

- Keep a register of all employed children, which shall clearly show their names, ages and dates of birth, duly certified wherever possible..... DWA, § 21.5 (d)
- Keep the records throughout the employment of any child, and for a period of 5 years following the termination of their employment ..... DWA, § 21.5 (e)

#### KEY:

**I-C** refers to ILO Convention No. 138 On The Minimum Age For Admission To Employment

**I-R** refers to ILO Recommendation No. 146 Concerning Minimum Age For Admission to Employment (1973)

**L-DWA** refers to Liberia's Decent Work Act (2015)

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# Child Labor: Legislative Analysis and Drafting for Compliance with International Standards



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# 01 Best Practices in Child Labor Reform

## 1.1 Child Labor Overview

Child labor exists in every region of the world and it deprives children of education, exposes them to danger, and reinforces intergenerational cycles of poverty. Governments and other actors have tackled the problem through a variety of methods, including initiatives that strengthen legal protections and enforcement mechanisms, address poverty, improve access to education, and mobilize public support for children's rights.

As a result of these efforts, from 2000 to 2012 the number of children engaged in child labor decreased significantly. Among children aged five to seventeen, the percentage engaged in child labor decreased from 16% to less than eleven percent. In absolute terms, this represents a total of almost 78 million fewer children engaged in child labor. However, there are still 168 million children worldwide engaged in child labor, with about 84 million in hazardous situations and six million in forced labor.

Child labor is most common in the agricultural sector (primarily work on small family farms), which accounts for 59% of all child laborers. Children are also widely exploited in the industrial sector (e.g., construction and manufacturing) and in the service sector (e.g., hotels and restaurants, street selling, and other forms of commerce). Boys outnumber girls in all sectors except in domestic work, where children are particularly vulnerable to exploitation and abuse because such work is hidden from public view and is often not subject to regulation. Children engaged in the worst forms of child labor such as slavery or forced labor, commercial sexual exploitation, and illicit activities present the most urgent need for action.

Child labor is a complex problem and is often the result of a combination of social, economic, and cultural factors, including:

- Extreme poverty and a lack of social programs for vulnerable families;
- Limited access to education and prohibitive costs of schooling;
- A natural disaster or health crisis creating a generation of households led by children;
- Demand in the labor market for children who are paid less than adults;
- Cultural and/or traditional practices; and
- Vulnerable children being coerced into illegal activities, including sexual exploitation and drug smuggling.

The international community has been focused on addressing child labor for decades, and the underlying framework for those efforts has been conventions and recommendations, including the following three, which represent both a call to action and a minimum acceptable framework for protecting children:

1. The International Labor Organization ("ILO") Convention No. 138 on the Minimum Age for Admission to Employment was adopted in 1973 and establishes the minimum working age as the age of completion of compulsory schooling but no lower than 15 years in developed countries and 14 years for developing countries.
2. The United Nations Convention on the Rights of the Child was adopted in 1989 and sets out basic rights of children such as the right to an education and the right to be protected from economic exploitation and from performing any work that is likely to be hazardous or

harmful to children's health or physical, mental, spiritual, moral or social development.

3. ILO Convention No. 182 was adopted in 1999 and requires ratifying countries to take immediate action to prohibit and eliminate the worst forms of child labor: slavery or forced labor practices similar to slavery; the use of children in prostitution or pornography; the use of children in illicit activities, including the production and trafficking of drugs; and work that by its nature is likely to harm the health, safety or morals of children.

Child labor has a very high human cost and its reduction has implications for the achievement of broader national development goals. Progress in eradicating child labor requires a multi-faceted policy response led by the national government and supported by the international community. Research shows that while education and enforcement remain key focus areas, an integrated approach addressing a range of social and economic factors that contribute to child labor is most effective. But if the global community is to succeed in ending child labor in the foreseeable future, it must accelerate its efforts on all fronts.

## 1.2 Best Practices in Child Labor Reform

Today, approaches to child labor reform tend to be holistic and multifaceted, focusing on underlying causes rather than visible symptoms. Reformers adapt reform efforts to the local context and utilize interdependent and coordinated actions. Successful child labor reform efforts usually focus on six broad, interdependent policy areas: legislation and enforcement; access to education and skill development; social protection; labor market policy; awareness-raising and social mobilization; and data collection. This section provides a general discussion of the principal policy issues, and the country case studies that follow provide specific examples of many of these policies in action. Although the child labor eradication efforts in the featured countries have incorporated programs in some or all of these policy areas, the case studies here focus primarily on interventions that represent uncommon approaches to the problem.

### Legislation and Enforcement

A legal framework that conforms to internationally recognized conventions and standards is critical to eliminating child labor. Legislation should set the principles, objectives, and priorities for reform efforts; establish specific rights and responsibilities, sanctions for violators, and redress for victims; and provide a basis and procedure for complaints, investigations, and enforcement actions.

Enforcement, however, is the key to an effective regulatory system. Obstacles to effective enforcement must be identified and addressed to ensure that the efficacy of the system is not compromised. Some common legislation and enforcement pitfalls to avoid include:

- Imposing sanctions that are not sufficiently severe to serve as a deterrent;
- Allocating inadequate funds to enforcement;
- Neglecting to train enforcement personnel, including the police and the judiciary;
- Failing to educate children about or empower them to enforce their rights;
- Failing to provide referral services and follow up for victims; and
- Using cumbersome processes to resolve cases.

### Access to Education and Skill Development

Education is a cornerstone of any program to eliminate child labor, and reform efforts should focus on a full range of education options, from formal and transitional programs to extracurricular activities. Transitional programs are particularly effective for working, at-risk, and vulnerable children and those in rural or remote areas where access to formal education is limited. This is because they ease the pathway into the formal education system or otherwise provide youth with marketable skills. Other possible options for strengthening the education system include:

- Expanded access to local early childhood education and home outreach programs;
- Increased school quality and improved subject relevance through curriculum reform;
- Expanded school access through construction of schools and classrooms and provision of after school activities; and



- Removing barriers to attendance by reducing or eliminating school fees, providing uniforms or textbooks, and developing school feeding programs.

### **Social Protection**

Poverty is a significant driver of child labor. ILO Recommendation No. 202 on Social Protection Floors recognizes that “social security is an important tool to prevent and reduce poverty, inequality, social exclusion and social insecurity.” Thus, efforts to eliminate child labor should include social protection policies aimed at reducing income volatility and helping vulnerable households cope with financial shocks.

One common social protection program consists of regular, reliable, and direct transfers in cash and/or in kind to individuals or households. Unconditional transfers are generally need-based cash payments such as social assistance and family allowance payments to the poor or to those at risk of falling into poverty. Conditional cash transfers are payments conditioned on certain behaviors such as enrolling children in school and maintaining adequate attendance levels. Evidence from a wide range of countries indicates that cash transfers conditioned on school attendance are effective in raising attendance rates and reducing child labor. For example, a program in Brazil reported that the average number of hours children worked decreased by fifty percent in the three states where a social transfer program was implemented.

### **Labor Market Policy**

Generally, the labor market can be used to help combat child labor through implementing policies that (1) help provide former child laborers and working age youth with marketable skills to ensure their successful transition into the workplace; and (2) encourage collaboration between private and public partners to address child labor in the supply chain. Participants at the 2010 Global Child Labor Conference recommended the following labor market priorities for governments seeking to address child labor:

- Vocational training for adults and young people of working age that corresponds with the current and future needs of the labor market;
- Creating and promoting decent and productive work for adults and young people of working age;
- Regulating and formalizing the informal economy where most instances of the worst forms of child labor occur; and
- Implementing measures to combat child labor in supply chains.

### **Awareness-Raising and Social Mobilization**

Awareness-raising is an important tool in preventing or eliminating child labor. This involves disseminating information about key child labor issues with the goal of changing attitudes and behavior regarding child labor.

Possible methods for raising awareness and mobilizing change include:

- Using communication campaigns to increase access to information on the benefits of schooling and the costs and risks associated with child labor;
- Seeking input from and engaging the community in efforts against child labor; and
- Advocating for the ratification of international child labor standards and for the incorporation of child labor concerns into broader national development plans.

### **Data Collection**

Accurate assessments of child labor are essential to any effort to develop targeted eradication actions. Statistics help countries understand the magnitude of the problem, formulate policies, and monitor the effectiveness of their approach. In 2008, the ILO adopted a resolution to create international statistical standards on child labor. The resolution aims to set standards for the collection, compilation, and analysis of national child labor statistics so that priorities for the elimination of child labor are shaped by reliable, comprehensive, and timely data.

The ILO recommends the following areas for statistical research regarding children:

- Age, sex, and geographical distribution;
- School attendance status;
- Engagement in unpaid household services and time spent in economic activity;
- Location of workplace and type of economic activity by industry;
- Working conditions, including impact on children's health and education; and
- Socio-economic characteristics of the child's household.

## 1.3 Child Labor Terms

In order to draft effective child labor policies and legislation, it is essential to understand and accurately define key child labor terms and concepts. For example, some commonly used terms such as “child,” take on a different and more complex meaning in the child labor context. Child labor terms are defined in international treaties, conventions, and protocols and implemented in national legislation, as explained below.

### Basic Terms

International law defines a **child** as any person under the age of eighteen years (Convention on the Rights of the Child).

**Child labor** occurs when any person under the age of 18 is engaged in one or more of the following categories of activities:

- (a) Worst forms of child labor
- (b) Employment below the minimum age set by national law; or
- (c) Hazardous unpaid household services

Note that there is a difference between children in employment and child labor. Permissible forms of child employment that are not defined as child labor include:

- (1) Children aged 12 to 14 years in permissible light work; and
- (2) Adolescents aged 15 to 17 years engaged in work not designated as one of the worst forms of child labor.

Type of Work	Minimum Age
Light Work	13 (can be 12 in developing economies)
Child Work	15 (can be 14 in developing economies)
Hazardous Work	18 (can be 16 if mitigated)
Worst Forms of Child Labor other than Hazardous Work	18

A child may be considered to be in child labor when the total number of hours worked in employment or unpaid household services exceeds the limits set by national laws.

To protect children there is a minimum age for children in employment. The **minimum age** for admission to employment or work should not be less than the age of completion of compulsory schooling and, in any case, not less than 15 years. However, an ILO member whose economy and

educational facilities are developing may, after consulting the organizations of employers and workers concerned (if they exist), specify a minimum age of 14 years.

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

**Street children** are children who fall into two main categories: those who live and work on the streets and do not have a place of residence, and those who work on the streets but normally reside with their parents or guardians.

### Types of Labor

There are several different types of labor that must be identified and distinguished when discussing child labor and child employment:

The **worst forms of child labor** are forms of child employment that are not permitted and are the subject of ILO Convention 182. The worst forms of child labor include the following:

- (a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, as well as forced or compulsory labor, including forced or compulsory recruitment of children in armed conflict;
- (b) The use, procuring or offering of a child for prostitution, for the production of pornography or 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 that, by its nature or circumstances in which it is carried out, is likely to harm the health, safety or morals of the children.

Depending on national circumstances, countries may also wish to collect data on activities by children which are outside the above list, such as begging and stealing.

The fourth category, which describes “work that is likely to harm the health, safety or morals of the children,” is generally referred to as hazardous work. (ILO Recommendation No. 190 on the Worst Forms of Child Labor, 1999)





**Hazardous work** is defined as children doing activities that are hazardous in nature, such as in industries or occupations that have been designated as hazardous, or work under hazardous conditions, such as long hours doing work that is not hazardous in nature.

Hazardous work is generally determined at the national level to be:

- (a) Work that 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, agent or possess, 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 in which the child is unreasonably confined to the premises of the employer.

National laws and regulations can name **designated hazardous occupations and industries for children**. Competent consulting bodies may also be relied upon to make recommendations for what should be considered hazardous. Surveys can be conducted to determine industries and occupations linked to illnesses or injuries.

Children are considered to be **working at night** if the work schedule includes hours of work that are defined as night work under national legislation. For children, time spent traveling between work and home should be considered part of the work schedule.

**Hazardous unpaid household service** is work performed in the child's own household under conditions that render it hazardous work, such as long hours, dangerous locations, or dangerous equipment.

**Forced labor** occurs in situations where means of threat, violence, or intimidation, repayment of debt, retention of identification documents, or threats of denunciation to immigration authorities are used to coerce persons, including children, into work.

Children may sometimes be employed in 'light work' when they are below the minimum age. This type of work is described in ILO Convention 138. **Light work** is permitted if it does not exceed the maximum number of hours defined by the national government, which should not exceed 14 hours per week. Additionally, states can legislate to limit the industries and occupations in which light work is permitted. Hazardous work can never qualify as light work.

Where children in particular age groups are permitted to engage in "light work" under national legislation, **such work should be excluded from the definition of child labor**. According to Article 7 of ILO Convention No. 138, national laws or regulations may permit the work of persons from 13 years of age (or 12 years in developing countries that have specified the general minimum age of employment of 14 years) in light work which is:

- (a) Not likely to be harmful to their health or development; and
- (b) Not harmful to school attendance, participation in vocational orientation or training

programs approved by the competent authority, or their capacity to benefit from the instruction received.

## Measurement Terms

The following terms are key concepts related to measuring child labor. It is important to be able to determine the prevalence of child labor as well as the types of child labor that are occurring to be able to draft appropriate legislation and develop plans that can effectively reduce the practice.

A **system of national accounts** (SNA) is an internationally agreed standard set of recommendations on how to compile measures of economic activity.

**Household establishment surveys** are designed to get a wide range of statistics on the socio-economic state of a household. These surveys are not designed to measure specific forms of child labor such as hazardous work or street children. An important issue for a household and establishment survey is to confirm that answers are being given objectively, especially in relation to hours, time of day and any hazardous activity done by the child.

A **baseline survey** aims to identify the characteristics and consequences of child labor in specific industries and/or areas at different points in time. These surveys are usually linked to intervention programs to combat child labor and help to identify project beneficiaries and also monitor their withdrawal from work over time.

A **rapid assessment survey** collects information on children in hidden forms of child labor. The output is mainly qualitative, descriptive and limited to a small geographic area. The method is not applicable if the aim is to estimate the number of children in employment. It can provide relevant data on the causes, consequences and characteristics of the form of child labor being investigated. (UNICEF, *Investigating Child Labour: Guidelines for Rapid Assessment*, (Jan. 2000)).

A **child labor monitoring system** is a planned method to coordinate efforts to observe, identify, and remove children from involvement in child labor. It involves the participation of environments in which children are likely to be present: homes, schools, communities and workplaces. For example, such a system can be informal and flexible or a highly structured and institutionalized process with specific aims, objectives, resources, and content. It can involve schools, non-formal education programs, teachers, and school inspectors, either through regular classroom monitoring to assess which children are absent on a regular basis or by measuring school performance.

A **referral pathway** is a plan for assuring that appropriate support services are delivered to those removed from involvement in child labor.

## 1.4 Case Studies: Child Labor Legislative Reform

### Brazil

#### Overview

Brazil has taken a multi-faceted approach to addressing child labor, which includes improving access to education and implementing social programs that address the root cause of the problem; enacting new laws and strengthening those already on the books; and raising awareness and attempting to change cultural views. A key initiative is the national government's funding of a number of cash transfer programs, including Programa de Erradicação do Trabalho Infantil (Program for the Eradication of Child Labour) (PETI) and Bolsa Familia (Family Allowance), which provide financial assistance to families conditioned on school attendance of their children.

Despite Brazil's success, children are still engaged in the worst forms of child labor, and the type of child labour that still persists is the most difficult to be eradicated: child labour in farms and rural areas, domestic child labour, child labour in drug trafficking and sexual exploitation networks, informal labour and its variations. In addition, Brazilian cultural norms generally accept child labor as a problem with little to no impact on the community, or alternatively view it as a valued, accepted and desired way to rule out idleness and crime.

#### Approach

In addition to the initiatives focusing on cash transfers and improving access to primary and secondary education, Brazil has implemented several unique programs that have contributed to reducing the incidence of child labor in the country.

**Educating Adults in Industries Connected to Child Labor.** In 2006, the NGO Childhood Brazil launched Programa Na Mão Certa (On the Right Track). The program is “aim[ed] at mobilizing governments, companies, and third-sector organizations to confront, in a more effective manner, child and adolescent sexual exploitation on Brazilian roadways.” On the Right Track created a corporate pact that required the signatories to promise to educate their employees, especially truck drivers, on childhood exploitation. Under the pact, Instituto WCF-Brasil (World Childhood Foundation-Brazil) agreed to create content to be used by the signatories in continuing education programs for their employees. In addition, On the Right Track created billboards, signs, and posters that are displayed on roads and in gas stations. All of these efforts are directed at educating and transforming truck drivers into protective agents of child and adolescent rights.

**Smartphone Applications as a Reporting and Educational Tool.** In 2014, Brazil amended the Penal Code to establish stricter sanctions for commercial sexual exploitation and to specify that the law applies to children and adolescents. The law is supported by Proteja Brasil (Protect Brazil), a smartphone and tablet app developed by the federal government and UNICEF for reporting child labor abuses. Reports made through the app trigger intervention by the appropriate law enforcement and child welfare authorities. The app also provides victims with information on where to seek help by displaying “telephone numbers, addresses and the best routes to the nearest police stations, protection councils and other organizations that help to combat violence against children.” Finally, the app serves as an educational tool by raising

awareness and understanding of the different forms of abuse and violence against children.”

**Creating A System of Mandatory Reporters.** Fundação Telefônica Brasil (Telefonica Foundation) created an online course for teachers and pedagogical coordinators to address child and adolescent rights in the junior high school curriculum. In 2012, content related to child labor was added to the curriculum, and the School in the Fight Against Child Labor (“ECTI”) was created. ECTI’s goals include “creat[ing] and expand[ing] a culture of rights as opposed to the cultural acceptance that child labor enjoys in Brazil.” More than six thousand people attend the course each semester. Since the program was implemented in 2012, 72% of participants have reported that the course “totally changed their view of the child labour phenomenon” and 24% “began to perceive their role as rights advocates.” Brazil also updated its laws in late 2014 to require public and private entities who work in child care to have trained professionals to identify and report instances of abuse, including child labor.

### **Impact**

As a result of Brazil’s multi-pronged approach, child labor is at the lowest levels in the country’s history. Today, only 3.5% of children age 5-14 are engaged in some kind of work, compared to 18% in 1992. In addition, 97.2% of children age 5-14 attend school today, compared to 85% in 1992.

The programs highlighted above have contributed to Brazil’s success in meaningful ways. For example, prior to the introduction of On the Right Track in 2005, 82.1% of surveyed truck drivers admitted to having direct involvement with the sexual exploitation of children for money or other advantages. By 2010, the percentage had been reduced to 63.2%. During the same period, the number of truck drivers who reported knowing that sexual exploitation was wrong increased by more than 16 percentage points, from 20.8% to 37%. The number of truck drivers who reported potential violations to Disque-Denúncia, a human rights hotline, has also increased. In conjunction with the ILO and the Federal Highway Police, the NGO responsible for On the Right Track has also identified more than 1,800 sections of federal highways in Brazil where children and adolescents are especially at risk of sexual exploitation.

In 2014, the Protect Brazil smartphone app was downloaded more than 37,000 times, and it was used to place more than 3,220 calls to child protection institutions. Promotion efforts regarding the app in advance of the 2014 FIFA World Cup tournament reached 1,000,000 families in 3,900 municipalities.

While the full impact of the mandatory reporting system remains to be seen, the program faces some challenges in expanding teachers’ view of the need to establish “a culture of rights” and establishing the role of schools and teachers in “defending and guaranteeing the rights of children.”

## Child Labor Reform Summary - Brazil

<b>Problem Statement</b>	<ol style="list-style-type: none"> <li>Children continue to be engaged in drug trafficking and sexual exploitation networks.</li> <li>Cultural norms in some areas do not view child labor as a problem.</li> </ol>		
<b>Interventions Applied</b> <i>*focus on notable or unique programs*</i>	<b>Educating Adults in Industries Connected to Child Labor.</b> On the Right Track uses road signs and participating companies' education programs to educate truck drivers about sexual exploitation of children.	<b>Smartphone Applications as a Reporting and Educational Tool.</b> Protect Brazil is a smartphone and tablet app for reporting child labor abuses and providing victims with information on where to obtain assistance.	<b>Creating A System of Mandatory Reporters.</b> Educates teachers and creates curricula to teach children's rights in junior high schools.
<b>Expected Results</b>	<ul style="list-style-type: none"> <li>Reduction in the number of truck drivers involved in sexual exploitation.</li> <li>Increase in number who identify sexual exploitation of children as wrong.</li> </ul>	<ul style="list-style-type: none"> <li>Increased reporting of child labor abuses.</li> <li>Provide information to victims.</li> </ul>	<ul style="list-style-type: none"> <li>Reduction of cultural acceptance of child labor.</li> </ul>
<b>Challenges/Obstacles</b>	<ul style="list-style-type: none"> <li>Uprooting long held acceptance of exploitation of children in certain parts of the community.</li> </ul>		<ul style="list-style-type: none"> <li>Creating culture of rights.</li> <li>Implementation issues in different school systems.</li> <li>Community integration needed to expand impact.</li> </ul>
<b>Unintended Consequences</b> <i>*positive or negative*</i>	<ul style="list-style-type: none"> <li>Increased the number of truck drivers reporting potential violations.</li> </ul>	<ul style="list-style-type: none"> <li>Promotion of the application educated the public at large.</li> </ul>	<ul style="list-style-type: none"> <li>Teachers began to understand and accept their role as rights advocates.</li> </ul>

## Colombia

### Overview

Compared to most of its Latin American neighbors, Colombia's economy is advanced and growing. Yet, child labor persists in several key sectors of the economy, including agriculture and mining. Children in Colombia are also engaged in work categorized by the ILO as among the "worst forms of child labor" such as drug trafficking, gang-related violent crime, the growth of crops used to produce illicit drugs, and commercial sexual exploitation (including the production of child pornography). Colombia's child labor problem is further aggravated by a decades-long conflict between the government and several paramilitary groups. Although the conflict itself does not rely heavily on child labor (only 250 children were recruited by the FARC and the ELN in 2014), it has played a secondary role by hindering transportation and damaging or destroying schools.

As in other countries, school attendance in Colombia is correlated to child labor. For example, the vast majority of children aged 5 to 14 years who are not working attend school. Thus, there is a higher incidence of child labor in rural areas and among Colombia's indigenous population where school attendance is lower. Colombian children of African descent are also considered especially vulnerable.

### Approach

Colombia has addressed its child labor problem by strengthening legislative prohibitions on hazardous or exploitative child labor; implementing victim assistance measures, establishing mechanisms to coordinate the enforcement of those prohibitions among various government agencies, and by collaborating with private businesses to eliminate child labor in their supply chains.

**Focus on Enacting and Enforcing Legislation.** Colombia has ratified all major international conventions aimed at combating labor, including:

1. ILO conventions establishing a minimum employment age of 14 and committing the government to eliminating the worst forms of child labor involving slavery, human trafficking, and the use of child labor in prostitution or pornography;
2. the UN's Palermo Protocol, which requires ratifying states to cooperate in combating human trafficking and to implement victim assistance measures; and
3. UN's Convention on the Rights of the Child, which formally recognizes a variety of children's rights and requires ratifying states to protect children from harmful and exploitative work.

Two additional legislative measures—both enacted in 2014—demonstrate the country's recent focus on assisting victims of human trafficking (including but not limited to child laborers). The Victims Assistance Decree entitles victims of human trafficking who file complaints within a certain time frame to physical protection and legal services and provides guidance for the agencies responsible for protecting and assisting those victims. Law 1719 includes similar access-to-services provisions and provides stiff criminal penalties for individuals found guilty of trafficking persons for commercial sexual exploitation. The enforcement of Colombia's laws against child labor has been enhanced by interagency coordination initiatives and research programs designed to collect data on the extent to which Colombia's coffee, sugar, and tobacco industries are driven by child labor.



**Addressing Child Labor in the Supply Chain.** In addition to regulatory initiatives, the government has pursued demand-side measures to combat child labor. For example, at the end of 2014, the Government launched the Colombia Network Against Child Labor, which is a public-private partnership in which member companies certify that they will implement best practices to eliminate child labor from their supply chains. Members also agree to promote education and awareness in the communities in which they do business. As of July 2015, the Network had grown from 14 corporate partners to 34 and included government agencies and international intergovernmental organizations as strategic allies.

### **Impact**

Based on a household survey conducted in 2014, only 9.3 percent of Colombia's children were engaged in child labor—a reduction of nearly half of a percentage-point (approximately 52,000 children) as against the 2013 figure. The United States Department of Labor's 2014 Findings on the Worst Forms of Child Labor found that "Colombia made a significant advancement in efforts to eliminate the worst forms of child labor." Colombia's improvement is in part due to the continued growth of the country's economy, but the government's promotion of heavier penalties for the exploitation of children in certain forms of child labor, its focus on a variety of victim assistance measures, and its enforcement initiatives have also played a role. It remains to be seen whether the reforms will have a positive impact on the especially vulnerable indigenous and Afro-Colombian populations.

The impact of Colombia's partnership with private businesses will need to be observed over a period of time to determine its impact, but the success of similar programs in other Latin American countries is cause for optimism. The program has grown rapidly and the Government has expressed its intent to continue expanding the program, aiming to enlist 500 businesses by the end of 2015.

Despite marked progress, Colombia's efforts in combating child labor will continue to be influenced by factors beyond the control of the Government and private enterprise, including the status of peace negotiations between the government and rebel groups. Progress made since peace negotiations between the government and rebel groups began in 2012 may also be responsible for reduced rates of child labor in Colombia.

Child Labor Reform Summary - Colombia		
<b>Problem Statement</b>	<ol style="list-style-type: none"> <li>1. Agriculture and mining industries rely on child labor.</li> <li>2. Children participate in illegal activities such as narcotics production.</li> <li>3. Commercial sexual exploitation of youth.</li> <li>4. Higher incidence of child labor among children from rural or indigenous areas and those of African descent.</li> <li>5. Anti-government paramilitary groups recruit children for combat and deter others from traveling to school.</li> </ol>	
<b>Interventions Applied</b> *focus on notable or unique programs*	<b>Focus on Enacting and Enforcing Legislation.</b> Ratified all major international conventions concerning child labor. Enacted legislation to aid trafficking victims. Executive branch implemented interagency coordination initiatives to enforce child labor laws. Created research programs designed to collect data regarding child labor.	<b>Addressing Child Labor in the Supply Chain.</b> Colombia Network Against Child Labor is a public-private partnership to eliminate child labor from members' supply chains. "Strategic allies" such as international NGO/IGOs and national government agencies responsible for combating child labor are members.
<b>Expected Results</b>	<ul style="list-style-type: none"> <li>• Conformance of national child labor laws to international standards.</li> <li>• Increased reporting of human trafficking.</li> <li>• Enhanced care for victims and deterrence of would-be perpetrators.</li> <li>• Greater understanding of child labor problem to inform design of future interventions.</li> </ul>	<ul style="list-style-type: none"> <li>• Reduced demand for child labor through voluntary self-policing by large corporate citizens.</li> <li>• Positive public relations incentives for participating corporations.</li> </ul>
<b>Challenges/Obstacles</b>	<ul style="list-style-type: none"> <li>• No agency has exclusive enforcement responsibility for child labor violations.</li> <li>• Prosecutions for violations of child labor laws remain rare.</li> <li>• Reporting period for victims to qualify for assistance is too short.</li> </ul>	
<b>Unintended Consequences</b> *positive or negative*		

## Overview

With twenty-nine percent of Fiji's population consisting of children aged fourteen and younger, child labor is a significant risk in the country. Child labor in Fiji occurs predominantly in three areas: (1) agriculture; (2) the service industry; and (3) sexual exploitation.

Financial considerations and a lack of emphasis on education cause children in Fiji to leave school to provide seasonal labor on tobacco and sugarcane farms, and many in rural areas drop out of school entirely to work full-time. Child labor in the service sector can be attributed to the traditional practice of sending children to live with families in larger cities where children engage in domestic and street work in exchange for food, clothing, shelter, and school fees. Finally, Fiji's lenient visa requirements and its role as a vacation and regional hub allow women and children to be more easily trafficked for the purposes of sexual exploitation. All of these factors were compounded in 2013—particularly in Western Fiji—by displacement caused by flood and cyclones.

## Approach

Fiji has increased its focus on eradicating child labor throughout the past decade. Along with regulatory reforms, Fiji participates in the Tackling Child Labor Through Education ("TACKLE") program, a joint initiative of the European Commission and the ILO aimed at fighting child labor in twelve countries across Africa, the Caribbean, and the Pacific group of states.

**Governmental Reforms Focused on Monitoring and Intervention.** Since 2008, Fiji has implemented various measures to combat child labor that bring together different partners and stakeholders to strengthen Fiji's monitoring and enforcement structure. For example, the government established a Child Labor Unit ("CLU"), which implements and oversees systems and processes for child labor inspections. The CLU employs 63 labor inspectors trained on child labor and hazardous work issues and child labor withdrawal procedures. The CLU emphasizes withdrawing children from labor situations and returning them to the education system or to technical and vocational training programs. In 2014, 2,735 inspections were conducted in 11 districts.

The CLU has also conducted studies and published a 2010 report on several groups of affected children, including sexually exploited children, street children, and children in rural and agricultural communities or informal settlements and squatter communities.

**A Customized Approach to the TACKLE Program.** In 2008, Fiji implemented Phase I of their TACKLE program at a cost of \$16 million funded by the European Union. The program was led by a steering committee comprised of multiple government agencies, trade organizations, and unions. Fiji created its own framework under TACKLE, which focused on improvements in four areas. Fiji sought to:

1. Improve its legal framework dealing with child labor and education. Such efforts led to a published report entitled the *Legislative Compliance Review on Child Labor Laws*, which included recommendations endorsed by Fiji's government to improve Fiji's child labor and education laws.

2. Strengthen its institutional capacity to formulate and implement child labor strategies. Efforts in this area comprised of training courses and educational programs.
3. Implement targeted initiatives to combat child labor, including focusing on eliminating specific types of child labor within certain communities. One such initiative centered on providing alternative education and training opportunities. Specifically, Fiji's Ministry of Education developed Start Your Own Business and Know About Business courses in schools to entice students to stay in school by teaching entrepreneurial and personal skills to prepare them to enter the business world.
4. Enhance national awareness regarding child labor. This included conducting research, offering information sessions, and sponsoring national media coverage regarding child labor activities. For example, high schools around the country participated in a camp designed to enhance student awareness of what child labor is and what they can do to eliminate it. Also, the CLU, Fiji Teachers' Union, and Trade Union Congress collaborated on World Day Against Child Labor to provide workshops for 40 union leaders that focused on enhancing educational opportunities for children.

Phase II of the TACKLE project commenced in Fiji in March 2015 and is scheduled to last for 24 months. The aim of this phase is to "strengthen the systems and structures put in place by stakeholders engaged in the TACKLE project from 2008 to 2013, and sustain national efforts to progressively eliminate child labour."

### **Impact**

From 2011 to 2014, more than 175 children were withdrawn from child labor worksites. The government reported only four cases of alleged child labor in 2014 compared to 64 cases in 2011 and 2012 and 41 cases in 2013.

In 2012, the government prosecuted and convicted two adults of domestic trafficking of two teenage girls and sentenced them to prison terms of 12 and 16 years. Additionally, three child labor cases were registered in the Employee Relations Tribunal, and the court found the employer guilty and imposed an \$8,600 fine in one of the cases.

## Child Labor Reform Summary - Fiji

<b>Problem Statement</b>	<ol style="list-style-type: none"> <li>1. Commercial sexual exploitation of children in urban centers and near ports.</li> <li>2. Many children leave school to provide seasonal labor on tobacco and sugarcane farms. Many in rural areas drop out of school entirely to work full-time.</li> <li>3. Traditional practice of sending children to live with families in larger cities to work in exchange for food, clothing, shelter, and school fees.</li> </ol>	
<b>Interventions Applied</b> <i>*focus on notable or unique programs*</i>	<b>Governmental Reforms Focused on Monitoring and Intervention.</b> Child Labor Unit ("CLU") implements procedures for child labor inspections and for withdrawing children from child labor.	<b>Customized Approach to the TACKLE Program.</b> Tackling Child Labor Through Education is an initiative in use in twelve countries. Fiji has sought to improve its national legal framework; offer training to strengthen its institutional capacity; eliminate child labor within certain communities; and enhance national awareness by conducting research and sponsoring media coverage.
<b>Expected Results</b>	<ul style="list-style-type: none"> <li>• Withdrawal of children from child labor and returning them to the education system or to technical and vocational training programs.</li> </ul>	<ul style="list-style-type: none"> <li>• Withdrawal of children from child labor and preventing further entry of children into employment.</li> <li>• Increased awareness of the rights of children and the effects of child labor.</li> </ul>
<b>Challenges/Obstacles</b>	<ul style="list-style-type: none"> <li>• Labor inspectors stationed in larger areas find it a challenge to access smaller, rural communities and outer islands.</li> </ul>	<ul style="list-style-type: none"> <li>• TACKLE is costly to operate and finding capable supervising national staff is difficult.</li> </ul>
<b>Unintended Consequences</b> <i>*positive or negative*</i>		

## Madagascar

### Overview

Children in Madagascar are particularly vulnerable to child labor and exploitation due to a high level of poverty and the instability caused by a March 2009 coup. Twenty-two percent of children aged 5-14 work, with eighty-seven percent employed in agriculture, particularly vanilla production. Children are also employed in the worst forms of child labor, including mining.

### Approach

Madagascar has made significant improvement in eliminating the worst forms of child labor by approaching the problem on multiple fronts. Madagascar has adopted a National Development Plan to combat the worst forms of child labor; enacted laws to fight human trafficking; and implemented social programs with intergovernmental organizations (“IGOs”) and nongovernmental organizations (“NGOs”) that provide educational and vocational training. Corporations such as Nestlé and its suppliers Givaudan and Henri Fraise Fils (“HFF”) have also taken independent action to address the child labor problem, including by improving financial outcomes for vanilla farmers and their children. Several of Madagascar’s social programs, as well as the Nestlé corporate model, are unique in that they work to reduce or eliminate child labor by targeting underlying family poverty drivers.

**Responsible Sourcing Initiatives in Vanilla Production.** Eighty percent of the world’s vanilla comes from Madagascar, and it is cultivated by approximately 80,000 farmers. Vanilla production is labor intensive, requiring farmers to hand pollinate the vanilla orchids, harvest the vanilla, and then cure it. Most producers are small-scale family farmers who earn on average \$2 USD per day and rely almost exclusively on vanilla production for their income. Given the low income and labor-intensive nature of the crop, vanilla producers rely on child labor in their family farms.

Nestlé’s suppliers, Givaudan and HFF, have developed a program to reduce child labor by improving the livelihood of farmers and by equipping children to seek employment other than vanilla production. Specifically, the program aims to (1) strengthen food security by training farmers to double the amount of their rice harvest; (2) improve local educational infrastructure by building or repairing schools and supplying educational materials; and (3) introduce farmers to alternative revenue streams such as beekeeping, livestock, fishing, and handicrafts.

**Educational Initiatives to Address Poverty.** Madagascar has participated in a \$35 million USD loan and grant program with the International Fund for Agricultural Development (“IFAD”). This program aims to increase household incomes by providing professional and vocational training to uneducated young people. UNICEF has also funded a \$30 million program to support a government interim education plan. The program provides funding to build classrooms, train and pay teachers, and distribute school kits.

**Child Friendly Spaces to Protect Children.** In response to flooding caused by Cyclone Ivan in 2008, UNICEF, along with the government of Madagascar and non-governmental organizations, set up “child friendly spaces” in Madagascar’s capital. These spaces provide children with safe places to play, basic education and health care, and counseling, among other services. Social workers who work in child friendly spaces are also empowered to identify and refer for help



exploited and neglected children and those living in situations of violence, abuse, and truancy. Child-friendly spaces have also served as a first response in emergencies such as during the country's political unrest in 2009.

### **Impact**

Many children have benefited from Madagascar's and its NGO partners' use of child-friendly spaces as a tool to protect children and address child labor. For example, in 2012, UNICEF helped to monitor over 12,000 children at eight child-friendly spaces in Madagascar's capital (with 400 receiving daily psychosocial support). After Cyclone Haruna in 2013, child-friendly spaces set up by UNICEF served approximately 1,800 children, and volunteers at the spaces educated parents on protecting their children during emergencies and provided psychosocial counseling to families.

Although studies have shown that child-friendly spaces can have a general positive impact on children's psychosocial well-being and protection, the impact depends on numerous factors, including the setting, the age and gender of the children, and the quality of programming. Also, the spaces must avoid focusing only on younger children and should include specific programming to attract and retain older children.

Madagascar's other initiatives are also showing promise. As of 2014, about 2,500 children and 2,000 families participated in the Nestle program, and four hundred new classrooms have been built through the UNICEF and IFAD programs.

Child Labor Reform Summary - Madagascar			
<b>Problem Statement</b>	<ol style="list-style-type: none"> <li>1. Significant barriers to education include lack of school infrastructure and inability to pay for school fees, supplies, and food.</li> <li>2. Children lack safe shelters in the wake of natural disasters and have unmet psychosocial well-being needs.</li> </ol>		
<b>Interventions Applied</b> *focus on notable or unique programs*	<b>Responsible Sourcing Initiatives in Vanilla Production.</b> Corporate vanilla producers have developed programs to build schools and provide school supplies; train farmers to double their food harvest; and introduce them to alternative revenue streams.	<b>Educational Initiatives to Address Poverty.</b> Government participates in programs with NGOs to provide professional and vocational training to uneducated young people.	<b>Child-Friendly Spaces to Protect Children.</b> Initiatives that provide children with safe places to play, basic education and health care services, and counseling, especially in disaster or other emergency situations.
<b>Expected Results</b>	<ul style="list-style-type: none"> <li>• Reduction in underlying poverty.</li> <li>• Reduction in child labor.</li> <li>• Better education options for children.</li> </ul>	<ul style="list-style-type: none"> <li>• Increased household incomes.</li> </ul>	<ul style="list-style-type: none"> <li>• Protection for children during emergencies.</li> <li>• Access to psychosocial counseling and other services.</li> </ul>
<b>Challenges/Obstacles</b>			<ul style="list-style-type: none"> <li>• Focus on younger children limits opportunity to serve older children.</li> <li>• Competition with programs in urban areas affects attendance.</li> </ul>
<b>Unintended Consequences</b> *positive or negative*			

# Uganda

## Overview

Uganda has one of the youngest populations in the world, with almost 50% of its population younger than 14 years. The population is also predominantly rural, with about 77% living outside urban areas. These demographics, along with factors such as high levels of poverty, the impact of HIV/AIDS and the growing levels of orphanhood, cultural norms, prohibitive cost of education, food insecurity, and the effects of war (especially in northern Uganda), contribute to the child labor problem. About 31% of children aged 6-13 years and 57% of children aged 14-17 years are employed. Children work in domestic service, stone quarrying, brick-making and laying, construction, sand and clay mining, commercial agriculture, charcoal burning, hotels and bars, hunting and commercial fishing, and commercial sexual exploitation. Those in rural areas are three times more likely to be employed than their peers in cities and towns.

## Approach

Uganda has put in place a framework for targeting child labor, which includes establishing laws on child labor; creating institutional mechanisms for the enforcement of such laws; and focusing on education.

**Strengthening Institutional Capacity to Address Child Labor.** In the last few years, the Ugandan government has established laws prohibiting forced labor and hazardous occupations for children and providing sanctions for child trafficking, commercial sexual exploitation of children, child pornography, and the use of children in illicit activities.

The key to Uganda's regulatory efforts is an elaborate enforcement mechanism through its various ministries. The Ministry of Gender, Labor and Social Development (MGLSD) enforces labor laws through district labor officers who conduct labor inspections. The Ministry of Local Government oversees the work of district labor officers and can deploy community development officers when district officers are not available. Labor inspections are generally conducted based on complaints or in randomly selected workplaces. Advance notice is not usually provided to employers, and labor officers are authorized to close workplaces or processes that pose an imminent danger to workers. The recently created Industrial Court has responsibility for enforcing child labor laws.

In 2014, MGLSD worked with UNICEF and several other charities to launch a toll-free national child helpline for reporting cases of child exploitation. "A key underlying goal of the project is to empower children so that they are able to voice their concerns, report incidents of abuse, and proactively seek assistance should the need arise." The helpline is staffed by professional counselors 24 hours a day, 7 days a week, and the staff provides counseling and escalates cases to local centers for direct intervention as necessary. Case workers at local centers are empowered to remove children from hazardous situations and to refer them for longer-term assistance. The MGLSD works with key corporate partners in the telecom and other industries to disseminate information and create awareness about the program.

The Ministry of Internal Affairs is responsible for enforcing criminal laws, including those against forced labor, trafficking, commercial sexual exploitation, and the use of children for illicit activities. The Child and Family Protection Unit ("CFPU") within this ministry also processes

child abuse cases. The CFPU's Anti-Human Trafficking National Taskforce has trained more than 100 police officers on trafficking prevention and how to identify potential trafficking victims. In addition, more than 200 police officers have been trained on victim management and investigation of cases, and 20 magistrate judges were trained on implementing the Prevention of Trafficking in Persons Act.

**Improving Access to Education.** Given the correlation between child labor and education, the Uganda government has invested significantly in education with the goal of raising enrollment levels for all children. The government introduced Universal Primary Education (UPE) and Universal Secondary Education (USE) in 1997 and 2007, respectively. Under the UPE program, all tuition fees and parent teacher association charges for primary education were abolished, although boarding fees and costs for school books, uniforms and medical care remained.

### **Impact**

The Uganda National Household Survey reported a 10% decrease in the number of working children between 2009-2010 and 2012-2013, although the results were not tied to any specific child labor reform initiative. Primary school enrollment in 2012-2013 improved to 10.4 million students compared to 8.7 million in 2009-2010, and net enrollment has been above 90% in recent years. The literacy rate for youths aged 15-24 years has increased from 81% in 2002 to 88% in 2008. A remaining challenge is children and young adults who have never attended school (12% of individuals aged 6 to 12 years; 3% of those 13 to 18 years; and 6% of those 19 to 24 years). The government targets this group through various supplemental education programs.

With respect to enforcement, the MGLSD has encountered several challenges, including lack of funding, but it conducted 300 workplace inspections in 2014. The CFPU has likewise been challenged by limited funding, as well as the lack of integration of its work into the general police training curriculum and the lack of referral mechanisms for social services for victims. The CFPU recorded 143 cases of child labor in 2014. The government as a whole investigated 139 child trafficking cases, which led to the conviction of four people. The national child helpline will likely become a key source of enforcement actions as Uganda works to integrate it within the larger child protection framework. Initially, the helpline received approximately 100 to 150 calls monthly, but the number increased to close to 700 calls daily by late 2015. The challenge for the helpline is to ensure coverage of all districts in Uganda.

## Child Labor Reform Summary - Uganda

<b>Problem Statement</b>	<p>1. High levels of poverty, the impact of HIV/AIDS and the growing number of resulting orphans, negative cultural norms, prohibitive cost of education, food insecurity, and the effects of war, especially in northern Uganda.</p> <p>2. Children in rural areas are three times more likely to be employed than their peers in cities and towns.</p>	
<b>Interventions Applied</b> *focus on notable or unique programs*	<p><b>Improving Access to Education.</b> Universal primary education (1997) and secondary education (2007). Tuition and parent teacher association fees are covered for primary school students.</p>	<p><b>Strengthening Institutional Capacity to Address Child Labor.</b> Legislation addressing minimum work age, hazardous work, child trafficking, use of children in illicit activities, and pornography. Improved enforcement, including labor inspections, a hotline to report child exploitation, and a special court for labor disputes.</p>
<b>Expected Results</b>	Higher enrollment at primary and secondary levels.	Increased prosecution of child labor cases and imposition of penalties.
<b>Challenges/Obstacles</b>	Boarding fees and costs of school books, uniforms, and medical care are still a hurdle for many families.	<ul style="list-style-type: none"> <li>• Lack of funding limits ability to conduct inspections.</li> <li>• Training on child labor and trafficking issues is not included in the general police curriculum.</li> <li>• National hotline operates only in a few districts and is not widely available in rural areas.</li> </ul>
<b>Unintended Consequences</b> *positive or negative*	Focus on primary and secondary schools ignores the needs of children who have never attended school.	

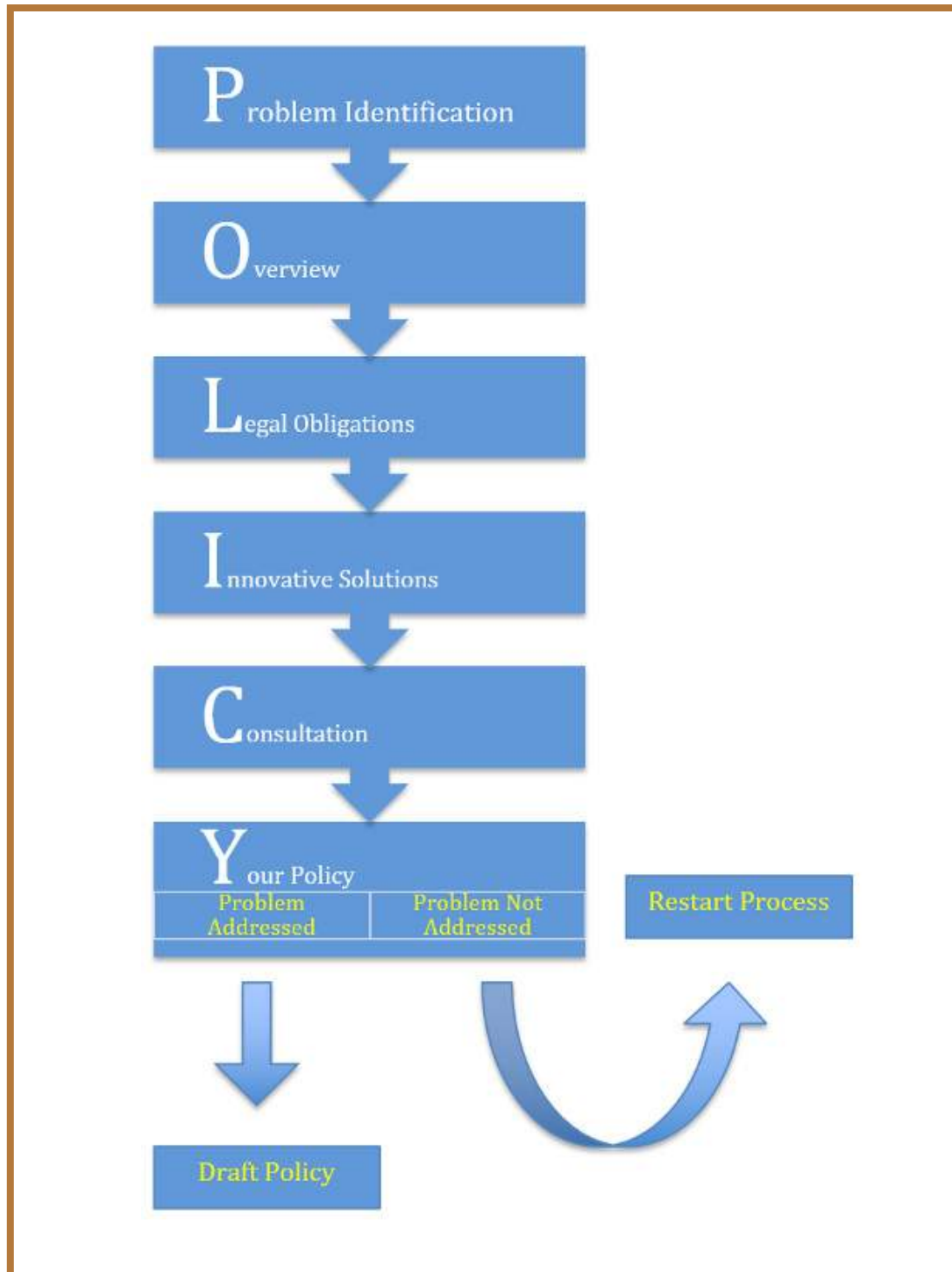




# 02 Legislative Analysis of Child Labor Laws

## 2.1 Introduction to Legislative Analysis

Legislative analysis is highly valuable to the creation of effective laws. It is the process of determining a well thought out, compliant policy that meets articulated needs. Legislative analysis must take place prior to drafting. In order to achieve a successful legislative analysis, you should consider the **POLICY approach** to the legislative analysis. This acronym stands for the six chronological steps needed to be undertaken in order to achieve a successful legislative analysis: (1) problem identification, (2) overview, (3) legal obligations, (4) innovative solutions, (5) consultation, and (6) your policy. Each step is described further in the pages that follow.



## 1) Problem Identification

The first step of the legislative process consists of the recognition that a problem, challenge, opportunity, or issue exists and that something needs to be done about it that involves government action or decision.

- In **Burkina Faso**, hazardous work is forbidden by a national decree based upon ILO guidance regarding the worst form of child labor. Notwithstanding this decree, many Burkinese children work in these prohibited activities, such as gold mining. Children are involved in digging and crushing rocks, installing dynamite, working underground, carrying heavy loads, and using cyanide and mercury in mining activities. These significant gaps between the legal prohibitions and the situation of children on the ground, point to a serious need for additional steps in order to implement such prohibitions. Legislation or regulation, such as increased penalties or child labor monitoring systems, may be a solution or first step to protecting a child.
- Although **Ghana** has had a hazardous activities framework since 2007, those regulations, for example, do not prohibit the use of sharp tools in cocoa production or in lake fishing. In addition, existing regulations do not provide for the imposition of penalties for violations of the listed activities. This suggests that the hazardous work list should be revised, and that legislation should be enacted to provide specific enforceable penalties for violation of the hazardous activities framework.
- In **Ukraine**, nearly 2 percent of children engaged in hazardous work are employed for more than 42 hours weekly, in violation of ILO standards. This occurs even though Ukraine has fully ratified international conventions on child labour calling for the adoption of national legislation consistent with international norms and international law. One remedy for this situation would be legislative modifications to bring Ukrainian law into conformity with international standards.

## 2) Overview

Once the problem has been identified, it is important to gather more information on the problem from several angles. First, gathering more detailed data, such as demographic, geographic, and statistical data, may help one to better understand the scope of the problem. For example, in the Burkina Faso example above, is information available on

### Starting Resources:

- The African Child Information Hub;
- Global News Network Liberia;
- ILO Report on Child Labor in Liberia;
- ILO Natlex Review for Liberia;
- ILO Liberia Fact Sheet;
- U.S. Department of Labor Report on the Worst Forms of Child Labor for Liberia;
- UNICEF Report on the Situation of Child and Woman in Liberia.

how many children are involved in each kind of hazardous work? Who are the employers and is it a formal or informal employment relationship? Are children attending school or being provided

with other training? What other industries may be involved with hazardous child labor? To research such questions, consider information from data sources both internal and external. There may be national child labor surveys or international sources that provide a different perspective or additional data on the problem. Read broadly and thoughtfully, with an eye to details that may affect your intended policy.

### Types of Laws to Review

- Constitution
- Child Labor Act
- Labor Act
- Education Act
- Children's Act
- Penal Code
- Trafficking in Persons Act
- Bonded Labor Act
- Sector-specific laws such as a Mining Act or Fisheries Act
- Social Security Act

Next, review the national legal framework to see what protections or policies may already be in place in this area. It is important to do a thorough review, looking at several different laws and types of law. Consider not only the child labor act, but also a children's act, human trafficking laws, and other relevant topical areas (see box at left). In addition to legislation, consider regulatory law and other sources of policy. Other sources of relevant policy may include Standard Operating Procedures, National or Local Action Plans, or more (see box at right).

Finally, conduct research to determine the functioning of the law and policy in practice. Many countries have excellent law that is poorly implemented and enforced. Is the problem with the law or policy as written, or is it an issue of education, enforcement, resources, or other implementation issue? It may be easier to work with the policies as written and improve other aspects rather than pass a new law.

### 3) Legal Obligations

Once there is an understanding of both the problem and the current legislative landscape, one must look to higher institutions for guidance on the legal framework. The two key sources of higher law, national constitutions and international conventions, may provide guidance regarding both expectations and restrictions. ILO Conventions, for example, outline the commitments a country has made on child labor and have a structural outline for how to think about minimum age and worst forms of child labor, among other topics. Constitutions may outline which rights must be protected. The third step consists of reviewing both the international obligations and the national constitutional obligations.

**International Obligations.** There are five international conventions and recommendations addressing child labor issues that will be viewed in more detail in the second part of this chapter:

- United Nations Conventions on the Rights of the Child;
- ILO Convention No. 138 Concerning Minimum Age for Admission to Employment;
- ILO Convention No. 182 on the Worst Forms of Child Labor;
- ILO Recommendation No. 146 Concerning Minimum Age for Admission to Employment; and
- ILO Recommendation No. 190 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.

### Sources of Law and Policy

- National Laws
- Local Laws
- National Regulations
- Policies
  - National Action Plans
  - Standard Operating Procedures
  - Local and regional policies

**The National Constitutional Obligations.** The proposed legislation must satisfy the country's constitutional obligations. These obligations can be rights, restrictions, or procedural. For example, when considering child labor, the Constitution at Article 18 requires equal pay for equal work, which may factor into a relevant child work law. For procedure, the Constitution will lay out how a bill becomes a law and other procedural information to help form a basic understanding of their requirements.

#### **Key Provisions of Liberia's Constitution Regarding Child Labor**

- Article 6: Equal access to education
- Article 8: Non-discrimination in employment, equal opportunities for employment, and safe, healthy employment conditions
- Article 11: Equality of citizens before the law, non-discrimination, right to life, liberty, and property
- Article 12: Prohibition of slavery and forced labor
- Article 13: Freedom of movement
- Article 18: Equal opportunity for work and employment without discrimination and equal pay for equal work

#### **4) Innovative Solutions**

It is important to remember legislation is not the only - or even the best - solution to all problems. First of all, alternatives to the proposed legislation have to be considered. Indeed, sometimes a decision is made to draft or amend a law without thinking about alternatives that may be more efficient, effective, and less costly. It is always worth asking the question: is there a better alternative to a law? The time and cost involved in creating and making a law may well be justified, but an important question to answer is whether options other than legislation have been considered. Options to new legislation could include using existing law and an education, information, or public awareness campaign.

**Questions for Legislative Solutions.** If a law appears to be the best solution, consider the following:

- **Regulatory Impact Analysis:** Were alternatives to new legislation considered? What human and administrative resources will be required to implement and operate the new law? What will be the expected benefits of the proposed law?
- **Enforcement of the Law:** Who will enforce the law? Are human and financial resources available for enforcement? Are lower cost enforcement options available? Is there a time limit within which enforcement proceedings must start?
- **Accountability Mechanisms:** Who is accountable for implementing and the operation of the law? Are annual or periodic reports required to be filed with the legislature? Are those reports public?
- **Is the Proposed Legislation Working?** Who will review the law to see if it is meeting its purpose? When will reviews be done? How will the review be done? Will the results of the review be public?

## 5) Consultation

The fifth step of the legislative analysis is crucial and consists of consulting stakeholders on the proposed legislation. Consultation should occur both within government and with those outside the government who may be affected by the legislation.

Internal government consultation furthers several goals. It helps foster efficient government, uses existing expertise, resolves internal conflict early in the process, helps identify amendments that are needed to other laws, and gives an opportunity to resolve government-wide issues.

External consultation makes for transparent law-making, helps gauge the real life impact of the legislation and degree of support and opposition, and helps identify issues, including technical and consequential unintended issues that may not have been previously considered or understood. It gives a voice to stakeholders to ensure all necessary perspectives are including in a new policy.

A consultation process is based on belief in the value of openness and transparency; information exchange and fostering respect for the views of others.

### Who are the most common stakeholders who need to be consulted?

Government departments and agencies, police officers and investigators currently working on resolving the issue, experts on the issue, local NGOs, social workers, and citizens affected by the proposed legislation should all be considered. Below are lists of additional stakeholders to consider.

#### Consultations Within the Government:

- Ministry of Labor
  - Minister of Labor
  - NACOMAL
  - Labor Officers/Inspectors
- Ministry of Education
- Ministry of Gender, Children, and Social Protection
- Ministry of Agriculture
  - District Officers
- Ministry of Commerce and Industry
- Ministry of Mines
- Ministry of Youth and Sports
- Youth Parliament Representative
- Ministry of Justice
  - Attorney General

- Solicitor General
- Prosecutors
- Judicial Institute
- Law Reform Commission
- Liberia National Police

#### Consultations Outside of the Government:

- NGOs
- CSOs
- Religious leaders
- Traditional leaders
- Youth
- Unions
- Business and Industry Groups



## 6) Your Policy

Finally, the last step of a successful legislative analysis is to review the proposed policy solution and to determine if it fully addresses the issue. If the answer is yes, it is now time to move to the drafting of the new legislation. However, if the proposed policy does not resolve

the issue completely, the entire legislative analysis must be undertaken again from the first step with the knowledge acquired during the first analysis. This process has to be followed until it is decided that the proposed policy will fully resolve the issue identified.

### Key Questions to Ask:

- Does the policy take into account all stakeholders?
- How and who will implement?
- Are resources available to implement?
- How will the public be involved and informed?

## 2.2 International Conventions and Obligations

### Addressing Child Labor

As referenced in the previous section, there are four essential international conventions and obligations addressing child labour. These include: the Convention Concerning Minimum Age for Admission to Employment, the Convention on the Worst Forms of Child Labour, the Recommendation Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, and the United Nations Convention on the Rights of the Child.

Each Convention and Recommendation must be consulted when forming new policy to ensure it is keeping with the country's international commitments. Below is a summary of the key points of each document.

- **ILO 138 - Convention Concerning Minimum Age for Admission to Employment**

The International Labor Organization ("ILO") C138, the Convention Concerning Minimum Age for Admission to Employment ("ILO 138"), was adopted by the ILO on June 26, 1973 and entered into force three years later, on June 19, 1976. To date, 168 countries have ratified the Convention. Though ILO 138 was adopted with a view towards the total abolition of child labor, the ILO recognized that an effective way to ensure that children do not start working at a young age is to regulate the age at which children can legally enter the workforce. Additionally, ILO 138 was adopted as a general convention to apply across all economic sectors, thus aiming to replace the previous ad hoc system of industry-specific conventions addressing the issue of minimum age.

The Convention outlines specific obligations of ratifying states with respect to minimum age requirements. Such obligations include: the establishment of national policies "designed to ensure the effective abolition of child labor and to raise progressively the minimum age for admission to employment"; the requirement that all ratifying states establish a minimum age of no less than 15 years; the establishment of the minimum age for hazardous work at 18 years; the requirement for states to define hazardous work in consultation with organizations representing employers and workers; and the requirement that all ratifying states establish effective enforcement mechanisms to ensure compliance with the Convention.

The drafters of ILO 138 recognized that in some developing countries the immediate application of a universal minimum age of 15 years may be untenable. Therefore, the Convention allows states "whose economy and educational facilities are insufficiently developed" to initially specify a minimum age of 14 years. Similarly, ILO 138 allows those countries to initially limit the scope of the Convention if necessary. However, such restrictions are intended to be temporally limited, and states that avail themselves of such provisions must regularly justify their restrictions to the ILO, or otherwise comply with the generally applicable measures established by the Convention.

- **ILO 146 - Recommendation Concerning Minimum Age for Admission to Employment**

The International Labor Organization ("ILO") Recommendation 146, the Recommendation Concerning Minimum Age for Admission to Employment ("ILO 146"), was adopted by the ILO on June 26, 1973 as a recommendation to The Convention on the Minimum Age for Admission to Employment ("ILO 138"). ILO 146 was drafted as a supplement to ILO 138 to enhance the

provisions of the Convention. Therefore, while ILO 146 is intended to be applied “in conjunction” with the Convention—which is binding upon its 168 signatories—as a recommendation, it does not have binding force. Nepal has not ratified Recommendation No. 146.

The Recommendation further defines certain policy elements concerning the minimum age for admission to employment. ILO 146 focuses on the implementation of national policy, which is intended to abolish child labor and raise the minimum age for admission to employment. ILO 146 outlines specific areas where significant attention should be placed to ensure successful planning and policy, such as the following: employment oriented development, economic and social measures to alleviate poverty, social security and family welfare, and development of adequate educational facilities, etc. ILO 146 also recommends that national policy focus on the needs of orphaned and migrant children and mandate full-time school attendance or attendance in an approved vocational or training program.

The Recommendation strongly suggests that signatories take urgent steps toward raising the minimum age for admission to employment for all economic activity to age 16 (or age 15 for those countries meeting certain conditions). ILO 146 also recommends raising the minimum age for work that “is likely to jeopardise the health, safety or morals of young persons” to age 18. ILO 146 defines this type of work as “hazardous employment or work.”

The Recommendation further outlines specific areas where significant attention should be placed on improving conditions of employment, such as adhering to the principle of equal pay for equal work, limiting working hours to eliminate interference with schooling, and maintaining health and safety standards. Finally, ILO 146 discusses measures to enforce the Minimum Age Convention (ILO 138) and the Recommendation itself.

- **ILO 182 - Convention on the Worst Forms of Child Labor**

The International Labor Organization (“ILO”) C182, the Convention on the Worst Forms of Child Labor (“ILO 182”), was adopted by the ILO on June 17, 1999 and entered into force almost one-and-a-half years later, on November 19, 2000. To date, 180 countries have ratified the Convention. ILO 182 was drafted and ratified as a “complement” to the Convention Concerning Minimum Age for Admission to Employment, with the aim of “prohibit[ing] and eliminate[ing] . . . the worst forms of child labor.” The drafters recognized that particularly harsh forms of child labor are uniquely detrimental to children’s health and development, and therefore States must take specific measures not only to eliminate these “worst forms” of child labor, but also to provide for the rehabilitation of children who had been exposed to such labor.

The Convention outlines specific obligations of ratifying states with respect to prohibiting and eliminating the worst forms of child labor, “as a matter of urgency.” The Convention defines four types of “worst forms,” which includes: 1) slavery and practices similar to slavery; 2) the use of children for prostitution or pornography; 3) the use of children for illicit activities, such as drug trafficking; and 4) work that, by “its nature or circumstances in which it is carried out, is likely to harm the health, safety or morals of children.” The drafters of ILO 182 recognized that the circumstances and conditions of different economic sectors may vary by country, and therefore left room for each State to define what constitutes “hazardous conditions” for the purposes of the Convention.

ILO 182 emphasizes the responsibility of States Parties to implement effective measures to ensure compliance with the Convention. Consequently, the Convention obligates States to establish monitoring and enforcement mechanisms, educate the populous as to forms of prohibited labor, and not only create programs to eliminate prohibited labor but also to rehabilitate child laborers for into society. Moreover, recognizing the detrimental effect child labor has on a child's ability to attend school, the Convention mandates that States Parties ensure access to free primary education and, whenever possible, provide for vocational training programs for all children, particularly at-risk youth.

- **ILO 190 - Recommendation Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor**

The International Labor Organization ("ILO") Recommendation 190, the Recommendation Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor ("ILO 190"), was adopted by the ILO on June 17, 1999 as a recommendation to The Convention on the Worst Forms of Child Labor ("ILO 182"). ILO 190 was drafted as a supplement to ILO 182 to enhance the provisions of the Convention. Therefore, while ILO 190 is intended to be applied "in conjunction" with the Convention—which is binding upon its 180 signatories—as a recommendation, it does not have binding force.

The Recommendation is primarily concerned with providing guidance regarding implementation measures with respect to prohibiting and eliminating the worst forms of child labor. As an initial matter, ILO 190 reiterates that States' programs of action should be implemented, and offers guidance as to the aims of such programs. The Recommendation lists a host of implementation measures, including, inter alia, recommendations as to how data regarding child labor should be kept and used; that states should coordinate measures; that certain offenses should be criminalized (such as child slavery and prostitution); that states adopt special procedures for making complaints relating to labor abuses; and many others.

Additionally, the Recommendation provides further guidance as to how states may choose to define types of hazardous work, which is a specific sub-set of worst forms of child labor laid forth in the Convention. It urges states to consider hazardous work to include such work that exposes children to physical, psychological, or sexual abuse; work that occurs in certain dangerous geographic locations; any work with dangerous tools or machinery; work in unhealthy environments; and work under "particularly difficult conditions," such as long hours.

- **United Nations Convention on the Rights of Children**

The Convention on the Rights of the Child ("CRC") was adopted by the United Nations General Assembly on November 20, 1989, and entered into force less than one year later, on September 2, 1990.

More countries have ratified the CRC than any other international convention, with the Convention having 196 States Parties total. In adopting and ratifying the CRC, the General Assembly recognized international human rights law's tradition of affording special protection and care for children, as evidenced by certain provisions of, for example, the Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International

Covenant on Economic, Social, and Cultural Rights and as laid forth in the Declaration of the Rights of the Child. The Convention, therefore, was ratified in order to safeguard and preserve rights specific to children, recognizing that such special protections are necessary “by reason of [their] physical and mental immaturity.” As such, the CRC requires States to adopt a broad array of protections for children, ranging from civil and political rights (such as the right to life, freedom of expression, and access to information) to social and economic rights (such as access to education, healthcare, and an adequate standard of living) to rights relating to family relations and adoption.

Additionally, in early 2002, two optional protocols to the CRC entered into force—the Optional Protocol on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (entered into force on January 18, 2002) and the Optional Protocol on Right of the Child on the Involvement of Children in Armed Conflict (entered in force on February 12, 2002). These optional protocols have been ratified by 171 and 161 parties, respectively. As the names suggest, these protocols add valuable responsibilities for States to address the problems of child trafficking, prostitution, pornography, and the use of children in armed conflict, with a specific eye towards providing for protections for children in these areas.

Together with the optional protocols, the Convention requires States to adopt laws and policies protecting the rights of the child as they relate to child labor. Such protections are often intertwined with children’s other rights, such as the rights to education, health, and adequate standard of living, as the protection—and violation—of certain rights necessarily affects others. Some examples of child labor-related requirements enshrined in the CRC include: that States provide a minimum age for entry into the workforce; that States limit children’s involvement in the military and armed conflict; that States criminalize all aspects of child prostitution and pornography; and that States provide free primary education to all children.

## 2.3 Child Labor International Standards Analysis

### Analysis of ILO Labor Compliance

As indicated by the preceding section, there are several international instruments that outline the obligations of signatories with regard to child labor. The same topic - for example, age requirements for work - is often covered in multiple documents. The analysis tool below is intended to help streamline the process of analyzing national law for compliance with these instruments and standards by grouping by topic rather than instrument and by providing relevant analytical questions for each.

This chart presents an analysis checklist for each item identifying the relevant questions necessary to implement internationally compliant domestic child labor legislation.

### Minimum Age

The Minimum Age for Admission to Employment is the age set by countries that allows people of that age and above to work and “no one under that age shall be admitted to employment or work in any occupation” ILO Convention 138, Article 1(1). Countries that have ratified the Convention are obligated to set the Minimum Age at no less than 15 years, unless the country uses the developing country exception, which permits countries to set the Minimum Age at 14 as a short-term measure. The Minimum Age of Employment cannot be higher than the age at which children complete compulsory schooling in that country.

Setting a Minimum Age of Employment allows children to benefit from free and compulsory education, while allowing some older children to work full time in a safe setting. The Minimum Age also permits all adults to seek employment. To determine whether the national laws comply with IO standards on Minimum Age, ask the following questions:

- Does the law provide a minimum age for work? (ILO standard is 15)
- Until what age is schooling mandatory in the country?
  - Is schooling compulsory until at least age 15?
- Does the law exclude any forms of employment from coverage by the Convention?
  - Are these work done by children that is related to general, vocational, or technical education?
  - Do the excluded forms relate to work done by persons aged 14 years or older as a part of education, training, or a program to facilitate the choice of occupation or training?
- If so, did the competent authority consult with organizations of employers and workers who would be affected?
- Are the forms excluded necessary, limited, or related to special and substantial problems of application?
- Did the competent national authority consult organizations of employers and workers that would be affected by the law?
- If forms were excluded but not for the reasons listed above, are the State’s economy and educational institutions still developing? (ILO exception is 14)
- Did the State declare which economic activities are covered by the convention?



- If so, do those activities include:
  - Mining and quarrying;
  - Manufacturing;
  - Construction;
  - Electricity?

## Light Work

Light Work is work that is “not likely to be harmful to a child’s health or development and does not prejudice the child’s attendance at school or participation in vocational training programs.” ILO Convention 138, Art. 7(1). Children between the ages of 13 – 15 may be engaged in Light Work.

Light Work is a common and even beneficial form of child employment around the world. However, the ILO has placed certain restrictions on Light Work to ensure that it remains a beneficial activity rather than harmful. To determine whether the national law complies with the ILO requirements for light work regulation, ask the following questions:

- Is there a definition of Light Work in law or regulation?
- If so, does that definition prohibit:
  - Work harmful to a child’s health?
  - Work harmful to a child’s development?
  - Work that prejudices a child’s attendance at school or participation in vocational training programs?
- Does it indicate at what age children can participate in Light Work? (13 – 15 is the ILO standard)
- Does the Light Work provision regulate hours spent in work?
  - Are there limits on how many hours per day a child can work? (2 hours per ILO)
  - Are there limits on how many hours per week a child can work? (14 hours per ILO)
- Has the country created a light work list, which indicates acceptable types of employment for children aged 13 – 15?
- Does the law account for monitoring of children employed in Light Work?
- Does the law account for adequate penalties for violations of the Light Work provisions?
  - Are those penalties sufficient to deter violations?
  - What is the procedure for reporting violations?
  - Who investigates and prosecutes accused violators?
  - What remedies are available for violations of the Light Work provisions?

## Hazardous Work

Hazardous work is work that “is likely to harm the health, safety or morals of children” ILO Convention No. 138, Art. 3(3). ‘Hazardous work may not be undertaken by persons under 18 unless special measures are taken to protect that health, safety and morals to the children involved, and the children have received adequate specific instruction or vocational training in the relevant branch of activity.

To determine whether the national law complied with the ILO requirements, ask the following questions:

- Does the law define employment that “jeopardise[s] the health, safety or morals of young persons?”

- Do other national laws or regulations define such types of employment?
- Is there a competent national authority who could define such types of employment?
  - If not, did the State determine what employment falls under this category by consulting organizations of employers and workers?
- Does the law prohibit children under the age of 18 from participating in those types of employment without exception?
  - If not:
    - Does the law prohibit children under 16 from participating in these types of employment?
    - Are sufficient safeguards in place to protect the health, safety, and morals of those aged 16-18?
    - Does the law require adequate specific instruction or vocational training for those aged 16-18 in the relevant field?
- Does the law contain sufficient penalties to ensure the enforcement of these provisions?
- Does the law provide safeguards to ensure that no children under the age of 16 perform hazardous work?

## Penalties

ILO Convention 182 requires countries to implement and enforce the Convention “including the provision and application of penal sanctions or, as appropriate, other sanctions.” (ILO Convention 182 Article 7(1))

A robust and comprehensive system of enforcement is necessary to actually implement the rules. Legislation is meaningless if it is not enforced and sanctions act as a deterrent against crime. Cooperation and communication between law enforcement, labor officers, the justice sector, and community members is essential. To determine if national laws comply with ILO standards, ask the following questions:

- What are the current penal sanctions in place for violations of child labor laws?
  - Do the sanctions need to be revised or revisited?
  - Do the sanctions provide for the compensation of victims?
  - Do the sanctions provide for the punishment of perpetrators?
  - Do the sanctions avoid imposing punishments on victims and families?
  - Do different sanctions apply for violations relating to different categories of the worst forms of child labor?
- Are the sanctions actually being applied?
- Are the sanctions being consistently enforced?
- Which authorities are responsible for enforcing the sanctions?
- Are inspection services, law enforcement, and the judiciary fully briefed and trained on the provisions of legislation prohibiting the worst forms of child labor and how to identify violations?
- Do law enforcement and police cooperate and communicate with labor inspectors and community monitors?
- Are sufficient resources allocated to the responsible authorities to ensure the enforcement of the sanctions?

# 03 Legislative Drafting in Child Labor Law

## 3.1 Legislative Process in Liberia

Once the legislative analysis has been completed and the desired policy can be articulated in detail, the next step is to draft and enact the implementing legislation. First, one must understand what the legislative or regulatory process will be. The following section describes in detail the process for passing both legislation and regulation in Liberia.

### Key Legislative Stakeholders

Liberia's government consists of a President (the executive) and a bicameral legislature (the legislature). The bicameral legislature consists of (a) the House of Representatives and (b) the Senate. Both the Liberian executive and legislative powers are introduced below.

#### Government Structures

**The Executive.** In Liberia, the executive power vests in the President, who is directly elected by the electorate for a term of six years; upon expiry of this term the President may be reelected for subsequent terms of six years. According to Articles 50 to 64 of the Constitution, the President serves as Head of State, Head of Government and Commander-in-Chief of the Armed Forces. The President exercises his powers through a cabinet of ministers and other officials nominated and appointed by him. The cabinet and all other executive officials are accountable to the President who is in turn accountable to the legislative.

The Executive holds the power to operate the government in accordance with the Constitution and laws passed by the legislature, conducts the foreign affairs on behalf of Liberia, and has the power to conclude treaties, conventions and similar international agreements. The Executive has no right to propose legislation, but may veto a law passed by the legislature (see further below).

**The Legislature.** The legislature is composed of the House of Representatives and the Senate. Both are elected directly by secret ballot in free and universal elections. This section shall discuss the composition and role of the Liberian legislature.

The **House of Representatives (HoR)** is currently composed of 73 members; each member represents an electoral district. The Speaker of the House is elected by the members of the House to preside over the chamber.

The **Senate** currently has 30 members, two Senators from each county, regardless of its size. The Vice President of Liberia serves as the President of the Senate. The Senate also elects a President Pro-Tempore who presides over the Senate in the absence of the President of the Senate and serves as the chief administrator.

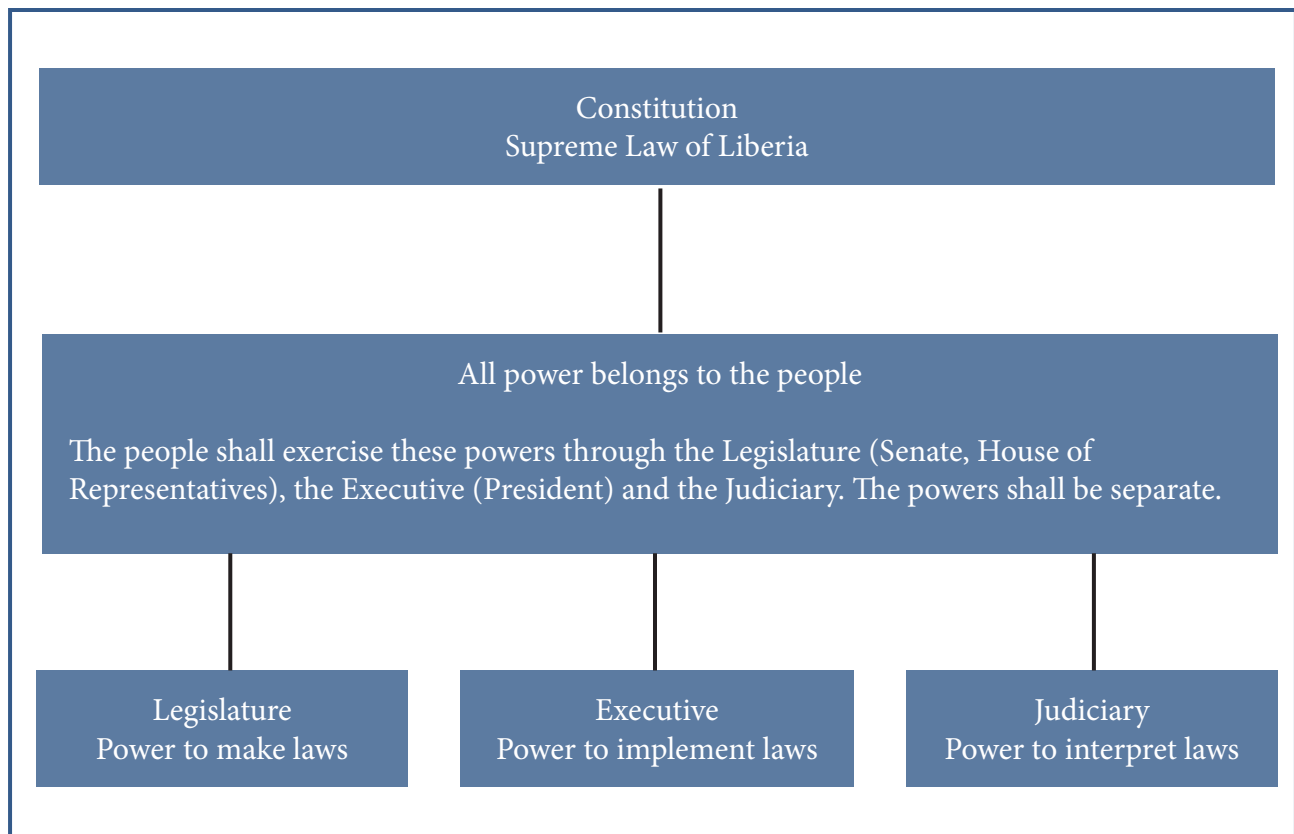
**Role of the Legislature.** The legislature is threefold: (1) lawmaking; (2) representing; and (3) overseeing.

**Lawmaking.** The primary function of the legislature is to make laws that address the concerns of the citizens of Liberia. Legislators are responsible for presenting legislation and offering

amendments to existing laws. The lawmaking function of the legislature includes approving the national budget that is proposed by the Executive. In the Liberian legislature, both chambers must independently approve legislation before it is sent to the President to be signed into law (see further below).

**Representation.** Legislators in Liberia are responsible for ensuring that their constituents' needs and concerns are reflected when the government develops legislations and implements policies. Legislators fulfill this duty by informing citizens about legislative activities, providing them with the opportunity to offer input on proposed legislations and existing policies, and responding to the needs and concerns of constituents in their districts or counties. Legislators are responsible for ensuring that there are sufficient opportunities for all citizens to engage in meaningful exchanges with their representatives, and that their views are given adequate consideration.

**Oversight.** The Liberian legislature monitors the activities of Executive Branch institutions to ensure that government programs are implemented efficiently, effectively, and in a manner that reflects the best interest of the citizens. This includes overseeing policy implementation to make sure that government policies are having the intended impact. This also includes holding the government accountable for expenditures to maximize the use of government funding. The legislature has the power to conduct hearings on specific policy areas, which provide an opportunity for legislators to examine the work of the government, and provide citizens with information about government programs. The Senate of Liberia is also responsible for confirming nominees for positions in the Executive and Judicial Branches.



## How a Bill Becomes a Law

Making and enacting law is one of the legislature's primary responsibilities and only the legislature may formally initiate laws (a bill may originate in either the HoR or the Senate). In summary, in order to become law, bills must be passed by a majority vote in both the HoR and the Senate, and be signed by the President. The below sets out in more detail the process by which a bill becomes law.

### The Idea for a Bill

A bill begins as an idea that someone would like to see become a law. Whereas a bill can only be introduced by members of the legislature, the idea for a bill can come from a wide variety of sources, including individual citizens, communities, civil society organizations or government institutions. The topic of a bill could be anything from strengthening anti-corruption measures to establishing electoral guidelines.

### Drafting the Bill

Secondly, the legislative idea must be transformed into a draft bill. Sometimes, legislative ideas reach the legislators in the form of an already prepared draft bill. Where the legislature drafts the bill, it is often supported by a research unit and a drafting center. In Liberia, the drafting group is the Law Reform Commission, who draft and review bills and provide advice on legislative matters.

### Introduction of the Bill and First Reading

Once the legislative idea is turned into a bill, it is ready to be introduced to the legislature for consideration. A bill has to be introduced by either a representative (in the HoR) or a senator (in the Senate). Therefore, if a private individual or group of individuals has a legislative idea, they must find one or more sponsors in one or both of the houses to assume responsibility for the bill and facilitate its introduction.

In order to introduce the bill, the sponsor gives the bill to the Chief Clerk of the House or the Secretary of the Senate and the bill is assigned a number. The bill is then given a First Reading in the "chamber of origin" (i.e., in the House if sponsored by a Representative; in the Senate, if sponsored by a Senator). For the first reading, the bill is read aloud to ensure that all legislators are aware of its content and overall purpose. Before a bill is capable of being enacted as law, it must be read three times on three different days. After the first readings has been completed, the Speaker of the HoR/President of the Senate puts to a vote the question whether the bill shall be read a second time or first be referred to committees.

### The Bill Goes to Committee

Both the HoR and the Senate each have a set of standing committees. Each of these standing

#### Law Reform Commission

- Provides advice, information and opinion on any legislation proposed by any branch of the Government or any groups, persons, organizations, institutions or the like, with regard to reform or amendment of any branch of the law;
- Receives, considers, reviews, and advances on its own initiative, proposals for the reform and modernization of the laws of Liberia relating to all of the branches of the Government and all branches of the law---civil, criminal, business and commercial, procedure, and the like;
- Compiles, researches, and undertakes the examination of particular branches of the law, and the formulation of proposals for their reform, including conducting workshops, seminars, conferences, and public meetings for the purpose of formulating and advancing reform of the laws of Liberia;
- Undertakes the drafting of bills pursuant to any proposed program of reform, with the purpose of ensuring consistency in the law, eliminating contradictions, and promoting the orderly development of the law to acceptable modern standard



committees had jurisdiction on different matters. After its introduction, a bill is normally referred to whichever of the House committees has jurisdiction on that subject matter. In some cases members may decide that it is necessary to establish a special committee to handle a unique or particularly important piece of legislation, or, where the subject matter pertains to more than one committee, to join several committees together.

The committee stage is crucial in the legislative process. Committees are responsible for examining the bill carefully, taking testimony for or against the bill, and deciding whether to send the bill to the “floor” (the full House or Senate) for consideration by the whole body.

While the bill is being considered by the committee, the committee members will seek expert input and hold “mark-up” sessions to make any changes or updates they think are important. When the committee is satisfied with the content of the bill, it is sent back to the plenary (i.e., the full HoR or Senate) for debate. The amendments made by the committee will only be incorporated in the draft bill after the plenary approves them during the second reading (see below). It is possible for a bill to be abandoned at the committee stage if the legislation is deemed unnecessary.

A bill is sometimes referred to a “committee of the whole house.” This means that rather than going to a specialized committee, the whole House of Representatives or the Senate will discuss the bill and make any proposed amendments together.

### **Second Reading and Debate**

Once a bill is sent back to the plenary, with or without amendments, it will be read for a second time. This is the moment where the full chamber has the opportunity to debate and amend the bill. The bill will be read out section by section during which amendments may be offered by the members of the chamber- such amendments are called “floor amendments”. In addition, the amendments proposed by the committee are considered and, if approved, incorporated into the bill. Amendments are adopted or rejected by a vote.

### **Engrossing**

Bills that have been adopted during the second reading are forwarded to the Engrossing Clerk for engrossing. “Engrossing” means that any amendments that were adopted by the HoR/Senate are now officially incorporated into the bill.

### **Third Reading and Voting**

Once engrossed, the bill is placed on the calendar for the third reading. In both the HoR and the Senate, the third reading is a formal voting process. During the third reading, no debate is allowed and no amendments are permitted, unless mandated by a two-thirds majority of the members of the chamber.

In order for the bill to be adopted, usually a majority must vote in favour (except bills on topics that by law require a two-third majority vote). The Senate requires a quorum of two-thirds of the entire membership, before voting can commence.

### **The Bill Goes to the Second Chamber**

According to the Liberian constitution, all legislation must be approved by both the HoR and the Senate. Thus, a bill that has successfully passed through all the stages in the chamber in which

it originated must be sent to the second chamber where it is required to go through the entire process as described above all over again.

It is not uncommon for a bill to be amended in the second chamber, and the version of the bill that passes out of the second chamber might be different from the version that was ultimately sanctioned by the first chamber. Sometimes amendments that are made in the second chamber are relatively insignificant while at other times the bill undergoes dramatic change. For a bill to be transmitted to the President for his final approval (see below), however, the House and the Senate must first agree on the exact same version of the bill.

When a bill is returned from the second chamber to the chamber of origin in a different form, two possible courses of action exist to attempt to reconcile the two versions:

- The chamber of origin may concur with and accept the amendments made by the second house or
- The chamber of origin may refuse to concur and request that a conference committee be appointed.

In the case of concurrence, the bill is delivered to the caucuses for discussion and then proceeds to final passage. In case a conference committee is appointed, the conference committee proposes a single version which must be adopted by both houses in order to progress.

### **Final Passage and Transmission to President**

If the house of origin concurs in the amendments to a bill adopted by the second house, it proceeds to final passage in the house of origin. If the bill has been to the conference committee and both houses have adopted the conference committee report, the bill is ready for final passage in both houses. In this process the house of origin conduct a roll call vote on the final version of a bill and, if it passes, transmits the bill to the second house for a similar roll call vote.

When all of the votes have been taken on a bill and the President of the Senate and the Speaker of the House have signed it and all other administrative actions are completed, the bill is transmitted to the President for final approval.

### **Presidential Action**

When the President receives the bill, s/he may act on the bill in one of the following ways:

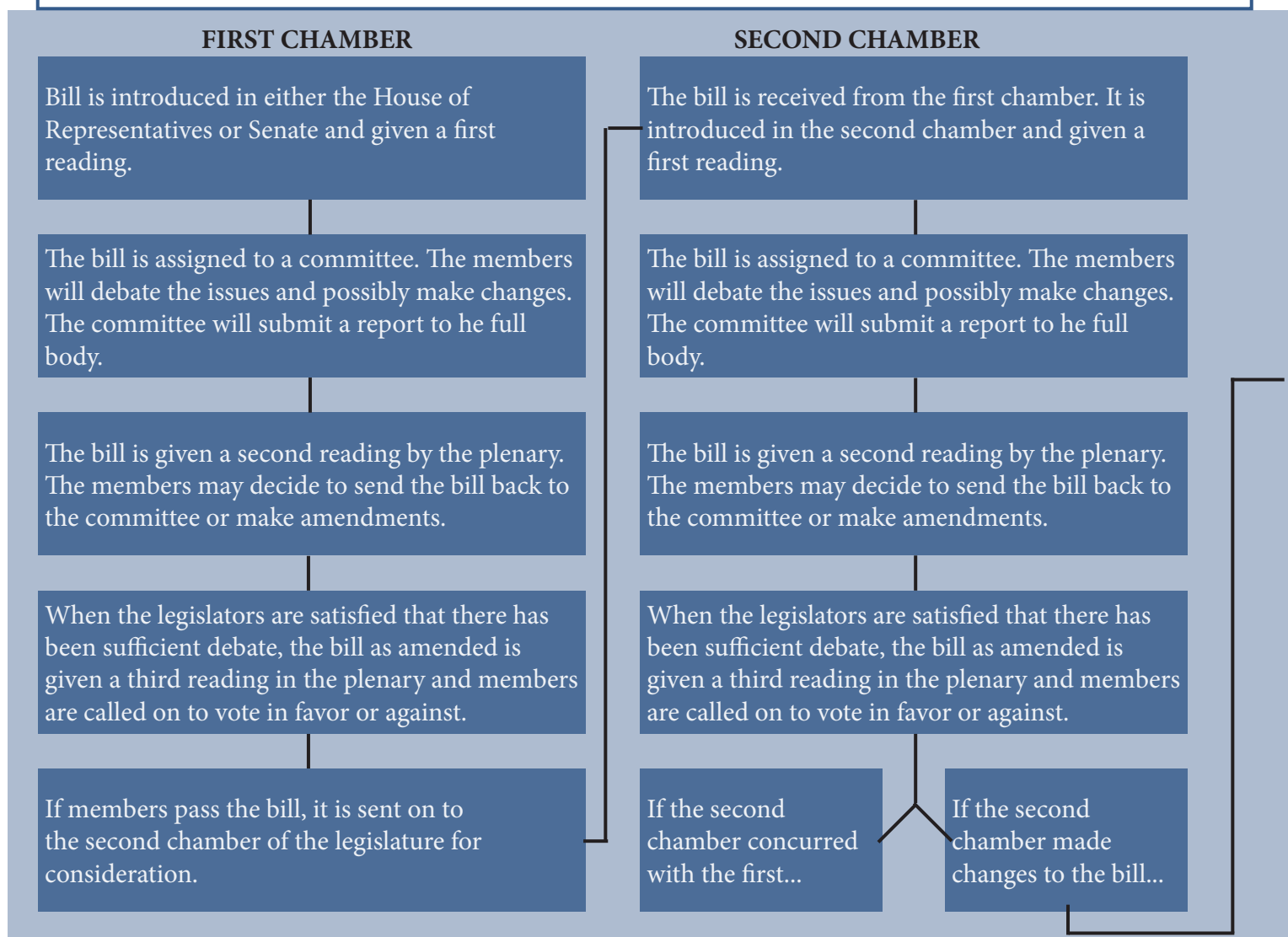
- Pass: If the President approves the bill s/he signs and dates the bill.
- If the President receives the bill and does not sign or return it to the Legislature with objections within 20 days, the bill will become law.
- Veto: If the President does not approve the bill, s/he must return it to its chamber of origin stating reasons for her/his objections within 20 days. The President can veto an entire bill or any item within a bill. In case the President objects to the bill and returns it to the chamber of its origin, the members of each chamber have to decide again on the fate of the bill. It is important to note that due to the principle of separation of powers the Legislature is not bound by the President's veto. Thus, despite the repassage of the bill by the President, the president's veto may be overridden by two-thirds of the members of each chamber. In this case the bill shall become law.

### **Publication**

Once a bill has either been signed by the President or vetoed but passed by a 2/3 majority of

each chamber, the bill will be published and enters into force on the date specified in the law.

The below sets out a schematic overview of the legislative process in Liberia.



## Administrative Rules and Regulations

Besides the laws that are passed by the legislature as described above, Liberia's legal system contains administrative rules and regulations (or "Delegated Legislation") that rank below legislative laws but may still have legally binding effect on Liberia's citizens. This section sets out to explain the concept of Delegated Legislation and elaborates upon the process by which such Delegated Legislation comes into existence.

### Delegated Legislation

Although lawmaking power in Liberia is vested in the legislative branch, the executive can still make binding rules and regulations that have legal effect. The executive branch has that power and competence, because the legislative branch authorizes the executive branch to have it. Law-making powers may be conferred on a wide variety of bodies ranging from government departments through local authorities and public corporations to private associations. The rationale for Delegated Legislation will be explained next.

### **Rationale for Delegated Regulation.**

The legislature adopts laws on many different subjects – such as labour and employment laws, taxation laws, laws to regulate business and commercial transactions, laws on land ownership and criminal laws. Members of the legislature must carefully study the laws they enact and consult with experts on the subject during the legislative process. But legislators do not have the time or resources to consider every detail that is needed to make the law workable. Some subjects need more detailed study by experts. In other cases, the law needs to be flexible so that it does not have to be amended each time the situation changes.

Therefore, the legislature decides to enact a law that establishes the policy and sets out standards to be followed by the executive branch in implementing the law. The law transfers authority to the executive branch to add details of implementation by adopting rules and regulations that comply with the policies and standards prescribed by the legislature.

Rules and regulations are not made by the legislature but in most cases by the executive branch, provided that the legislature has by law transferred the power to make such rules and regulations to the executive.

### **Common purposes of Delegated Legislation**

- Adding scientific expertise. To use an example relating to the United States, the US Food, Drug and Cosmetic Act outlaws the sale of adulterated or impure drugs. The act requires that the Department of Health and Human Services makes regulations establishing which laboratory tests to use to test the purity of each drug.
- Adding implementation detail. Legislation often delegates the details of implementing the law to the executing authorities.
- Adding industry expertise. To use another example relating to the United States, the U.S. Clean Air Act and Clean Water Act require the Environmental Protection Agency to determine the appropriate emissions control technologies on an industry-by-industry basis.
- Adding flexibility. More detailed regulations allow for more nuanced approaches to various conditions than a single legislative standard could. Moreover, regulations tend to be more easily changed as new data or technologies emerge.

### **How Does Delegated Legislation Come Into Existence?**

Once the legislature has enacted a law that sets out the parameters within which the executive may adopt Delegated Legislation, it is for the executive to draft and adopt the relevant Delegated Legislation. In general, that process involves the following steps

- **Drafting**

Delegated Legislation is usually drafted by the legal department of the ministry to which the lawmaking powers have been delegated by the legislature. During the drafting process, interested bodies and parties as well as experts are consulted.

- **Enactment**

Delegated Legislation is enacted by the Minister to whom the legislative power has been delegated. After the Minister has signed the Delegated Legislation, it becomes law.

## 3.2 Best Practices in Legislative Drafting

### 3.2.1 Introduction

The drafting of legislation is no simple task – it takes a skilled and experienced drafting team to create quality legislation. However, the value of well-drafted legislation is significant, in three specific ways:

- *It ensures legislation is enforceable and actionable:* Although enacted legislation becomes law, it can be made useless by ineffectiveness. Without enforceable provisions, a piece of legislation is left without the ability to be implemented. Laws should not be passed merely for the sake of having a policy in writing; instead laws should have a practical impact on the community.
- *It makes laws effective in their operation:* Beyond enforceability, laws must also be effective. This effectiveness must come from their scope of operation, specificity in subject matter, and ability to encapsulate the challenges the law was trying to address. As an example, hazardous lists for child labor are often created through delegated legislation.
- *It prevents the misinterpretation of legal principles:* Poorly drafted legislation allows for room for interpretation and misapplication by law enforcement and judicial officers. Unclear laws lead to confusion and a lack of direction when interpreting the purpose of the legislation, which can lead to the essence of the law being neglected.

Examples	
Poorly Drafted Legislation	Well-Drafted Legislation
The farmer shall submit a claim for damages from wild game in writing, and the Authority shall inspect the damage described in the claim within three days.	(a) If a farmer wishes compensation for damages from wild game, the farmer shall submit a written claim to the Authority. (b) The Authority shall inspect the damage described in the claim within three days.
(a) All cows must moo. (b) Notwithstanding the provision above, purple cows may refrain from mooing.	(a) Except as provided in subsection (b), all cows must moo. (b) Subsection (a) does not apply to purple cows.  OR  Except for purple cows, all cows must moo.

This chapter will address several key principles of drafting that help ensure laws are enforceable, effective, and correctly interpreted. These include fit, form, style, considerations of interpretation legislation, and best practices for the implementation of international instruments into domestic law.

### 3.2.2 Fit

Fit refers to how consistent the proposed legislation is with the applicable country's current laws, obligations, or policies. The proposed law should not contradict or undermine any existing such laws, obligations, or policies, unless the purpose of the proposed law is to replace or amend the current state of affairs. Legislative drafters must be wary of both the: (i) broader fit of how the proposed law fits with overall legislation and policies; and (ii) specific fit of how the proposed law interacts with existing laws on the same subject matter.

In the first instance, a legislative drafter should become familiar with the country's constitution and other documents that govern rulemaking in the jurisdiction. The constitution may outline parameters on what proposed legislation may cover and how it may be implemented. In addition, many jurisdictions publish guidelines or manuals on legislative drafting best practices or statutory interpretation. These documents are crucial in understanding what is needed to draft clear, effective, and legally enforceable laws. For instance, if a drafter desires to amend a certain law and the applicable jurisdiction codifies its law, the drafter must first determine whether the enacted bill or the code is the official version of the law. This analysis may overlap some with the "Legal Obligations" legislative analysis discussed perviously in Chapter 2, but moves beyond that analysis into the more technical and procedural aspects of drafting.

Once a drafter becomes familiar with general principles, the drafter should closely look at the existing law on the same or similar subject matter (i) in the applicable jurisdiction; (ii) in neighboring states; and (iii) from an international obligations standpoint (please see Section 3.2.6 for additional information on addressing international obligations). If the applicable jurisdiction has already established the same or similar law, then the drafter is presumably attempting to amend or change the existing legislation. For clarity and ease of reference for the reader, the proposed legislation should use the same specific terms or definitions as the existing law. For example, the term "child" may be defined the same in every existing law, so you should continue that practice when drafting the proposed legislation to prevent confusion. The proposed legislation should also use the same cross-references as the existing law. For example, a penal code or a children's act may cross reference the definition of the term "child" from the child labor law that you are revising. If you change the term, you must consider the effects that this change would have in the child labor law, the penal code, and the children's act.

Additionally, the drafter may take into consideration how neighboring states (or states that have similar legal constructs or historical ties with the applicable jurisdiction) have handled the same or similar subject matter. Although laws of a different jurisdiction are not binding to another jurisdiction, proposed legislation may be more accepted if it is consistent with efforts in other jurisdictions. On a macroscopic level, the drafter should also consider international or regional obligations that may address the subject. Treaties may directly or indirectly cover the subject, and proposed legislation should be consistent with ratified treaties.

After the drafter has researched general principles and existing laws, the drafter should determine the level of detail of the proposed legislation. The drafter should consider how the legislation will be received by lawmakers and constituents, how much discretion the judiciary has in interpreting the legislation, and how the legislation will be enforced. Careful wording will be necessary to make the proposed legislation understandable to the reader and to follow the intent of the drafter. Keep in mind that some details may be more appropriately added in



through implementing regulation that is enacted after the bill has become law.

### **Summary Checklist to Determine Fit:**

1. Be consistent with the constitution and documents on statutory interpretation and legislative drafting best practices.
2. Take into consideration laws that already exist in the applicable jurisdiction and neighboring jurisdictions, as well as international or regional obligations.
3. Determine how much detail should be in the proposed legislation in light of the political situation and governmental structure.

## **3.2.3 Form**

Form refers to the general structure or layout of the legislation. The form, or structure, of the proposed legislation must conform to the applicable jurisdiction's constitution, laws, and other rules. Following a uniform outline or layout promotes standardization among laws, which improves clarity and efficiency. Governments in many jurisdictions provide a manual or guidelines on the form for proposed legislation, which should be followed by the drafter. If not available, the drafter should refer to existing legislation in the applicable jurisdiction and mirror the structure to the extent possible.

### **Understanding Legislative Vehicles**

In determining the proper form of legislation, the drafter must first understand the various legislative vehicles in the jurisdiction (e.g., act, resolution, or amendment) and the purpose of the proposed legislation. Although the content of the proposed legislation is paramount, the drafter should structurally present the legislation in a manner consistent with other legislation, as an unconventional format will detract from the content of the proposal. Logical and reader-friendly organization will help the reader maintain focus on the substance of the proposed legislation.

### **General Structure**

The structure of proposed legislation will generally include a title, definitions, scope and applicability, administrative and procedural provisions, substance and body of the proposal, exceptions, miscellaneous provisions (e.g., enacting clause, which describes the source of authority, and severability clause, which states that terms are independent such that if one term is unenforceable, the document as a whole is not unenforceable), and an effective date (if applicable; generally, the effective date will be the date of enactment). Please refer to the diagram on page 64 for a sample structure of proposed legislation.

The two primary foci of the proposed legislation will be the scope and applicability and the substance and body. When drafting the scope and applicability, the drafter should question who is the targeted audience and intended constituents (e.g., specific areas or persons). The substance and body should be carefully crafted to reflect the intended scope and to avoid unintended consequences (e.g., a broader reach).

### **Types of Miscellaneous Provisions**

1. Enacting Clause – An enacting clause is a provision that indicates the appropriate legislative authority under which the law was enacted and its effective date.
2. Sunset Clause – A sunset clause is a provision that indicates the date in which the law will cease to remain in effect (e.g. the expiration date). This clause may also state whether the law would be reenacted by the appropriate authority.
3. Severability Clause – The severability clause states that if any provision in the law is determined to be invalid, then the entire law itself is not be declared invalid, unless the entire law would be ineffective or invalid without the invalid provision.

### **Formatting and Mechanics**

With respect to formatting and mechanics, the drafter should be aware of how sections and sub-sections are divided and numbered (e.g., section, sub-section, paragraph, subparagraph, clause and sub-clause), how titles are used (e.g., long, descriptive titles versus short titles with an act or regulation number), and placement of definitions (e.g., in the beginning of the act in alphabetical order). The drafter should also inquire as to whether there are parameters with respect to font size and style, spacing and tabbing, text alignment, page numbers, and footnotes or in-text notes. Often, jurisdictions encourage plain text font (e.g., no bold or italics), ample spacing for ease of reading, and general simplicity so that the reader's focus remains on the text of the substance (e.g., no graphics).

### **Amendments**

Special rules or guidelines may be in place for amendments, and the drafter should be careful in following exact procedures. For instance, there may be express instructions on how to strike language (e.g., removed language must be in all capital letters or punctuation must be specifically struck if no longer appropriate) or insert language (e.g., underscore all insertions). In addition, the drafter should also determine whether to amend and restate the legislation (e.g., "the section is amended to read as follows:") or focus on specific language of the legislation (e.g., "X is amended by striking A and inserting B"), if both options are permitted under the applicable jurisdiction's laws. Procedurally, amendments may require additional actions (e.g., two-thirds vote of a legislative body, or publication requirements), which may result in a lengthy timeline.

### **Consistency Within Working Groups**

Consistency is key, particularly if there are multiple people collaborating on a proposed legislation. Collecting ideas from various sources may improve the quality of the substance, but there is more room for variability in the form. The working group should create form guidelines that supplement any guidelines provided by the applicable jurisdiction's government. For instance, if not already outlined in the applicable jurisdiction's guidelines, the working group should have set parameters on numbering, indentation, when to use numerals versus words (e.g., words for one through ten and numerals for 11 and over), capitalization of certain words, date references (January 1 vs. 1 January), currency references (USD vs. \$), and common punctuation issues (e.g., use of the Oxford comma). Setting boundaries at the start of drafting will save time and improve efficiency.

## Titles

All legislation should be titled. Legislation may be given a long title or a short title. A long title describes the areas that the law is designed to reform and a short title is the name of an Act or law. A long title is not to be confused with a purpose clause, which states the objectives of the Act or law. A long title only identifies the areas in which the Act or law attempts to reform. Long titles can be found at the beginning of an Act or law and should be drafted broadly enough to encompass all contents of the Act or law. Unlike long titles, short titles simply state the name of the legislation. Short titles are given to enable easy reference to the law as well as to identify legislation. Short titles should also be informative, descriptive, and consistent with existing legislation.

### Example (Long Title)

An Act to consolidate and harmonise the Uganda Communications Act and the Electronic Media Act; to dissolve the Uganda Communications Commission and the Broadcasting Council and reconstitute them as one body known as the Uganda Communication Regulatory Authority; and to provide to related matters.  
*(Uganda Communications Regulatory Act, 2012)*

### Example (Short Titles)

Labour Act  
Child Welfare Act  
Criminal Code

## Preamble

A preamble is a helpful but not always necessary part of legislation. It can serve several purposes. Preambles may serve to explain: the objective of an Act, and/or;

1. to introduce the legal basis upon which the Act has been enacted;
2. to guide readers through the procedural steps taken to implement the legislation or;
3. to explain why the proposed legislation is necessary.

### Example (Preamble)

Where as it is expedient and necessary to provide for the establishment of Environment of Environment Courts for the trial of offences relating environmental pollution and matters incidental thereto;  
*The Environmental Court Act, 2000 [Bangladesh]*

## Enacting Clause

An enacting clause is a provision that indicates the appropriate legislative authority, such as the legislature, under which a law was enacted and its effective date. The enacting clause must refer to the Act by stating the exact title of the Act.

### Example (Enacting Clause)

Be it enacted by the Parliament of the Commonwealth of Dominica as follows--  
*Copyright Act 2003 [Com. Of Dominica]*

## Definitions

Definitions are used in legislation to define words or phrases that are particularly important and to assist readers in understanding terms that are repeated throughout the legislation. Definitions serve to (1) reduce ambiguity and (2) avoid unnecessary repetition.

**Reducing Ambiguity:** There are two types of definitions that are used to avoid ambiguity in legislation:

- **Narrowing Definitions:** Narrowing definitions serve to limit the definition of terms that have common understanding or meaning and define them within the purpose of the legislation. For example:
  - “*Company*” means a company incorporated in Hong Kong.
- **Extending Definitions:** Extending definitions are used to expand the meaning of common terms to fit within the purpose of the legislation. For example:
  - “*Person*” includes a corporation sole, and a body corporate or unincorporated.
  - “*Wall*” includes a door, window, or other structure dividing a lot from another lot.

**Avoiding Unnecessary Repetition:** Definitions help to avoid repetition by abbreviating terms or phrases that will be consistently referred to throughout the legislation. For example:

- “*Board*” means the Mines Occupational Health and Safety Advisory Board established under Section 5;
- “*Minister*” means the Minister of Labour;

The following drafting principles should be applied when drafting a “Definitions” section:

- **Placement:** Place definitions at the beginning of the substantive provisions. If the definition applies only to one section of the legislation, then place the definitions at the beginning of that section.
- **Restrictions:** The “Definitions” section should not include substantive provisions.
- **Format:** Use “means” or “includes” when defining a term. “Means” is appropriate when the drafter intends to provide a comprehensive list. “Includes” is appropriate when the definition is only meant to provide a sample, rather than a complete list. Definitions that use “includes” should not be long and comprehensive. It is also unnecessary to say “includes, but is not limited to” because such a construction is redundant. Examples of means versus includes are:
  - “Horticultural produce” means fruits, vegetables, flowers or plants.
  - “Horticultural produce” includes fruits and vegetables.

### Example (Definitions Section)

#### Section 2. Definitions.

Unless the subject or context otherwise requires, in this Act, --

- (a) “Bonded Labour (Kamaya Shram)” means the labour or service to be rendered for a creditor for the following reasons without wages or with nominal wages.
  - (1) To pay back the debt obtained by him/her or family and to pay the interest thereof.
  - (2) To pay back the debt obtained by his/her ascendant and to pay back the interest thereof.
- (b) “Creditor” means a person who provides debt to a bonded labourer.

*Bonded Labour (Prohibition) Act, 2058 (2002) [Nepal]*

## Section Headings

Section headings are used to describe the contents of a section or provision and should be placed above the section or provision it references. Section headings enable readers to quickly identify particular sections of an Act without providing a summary of the contents; therefore, these headings must be accurate, consistent, and concise.

### Example (Section Headings)

Section 1. Short Title and Commencement

Section 2. Definitions.

Section 3. Information to be Given.

## Numbering Sub-Sections

When drafting legislation, drafters should number subsections using consecutive bracketed numbers such as (1), (2), (3), and so on. Paragraphs within subsections should be numbered using consecutive alphabetical letters such as: (a), (b), and (c). Additionally, subparagraphs should be numbered using consecutive Roman numerals such as (i), (ii), (iii), and so forth.

### Example (Numbering Sub-Sections)

- (1) The functions, duties, and powers of the Cabinet shall be as follows:
- (a) to establish...;
  - (b) to inform... .
    - (i) ...; and
    - (ii) ...; and

## Plain Text Font

When drafting the substance and body of proposed legislation, drafters should be careful to use plain text font and avoid the use of bold, italics, and underlining to ensure effective readability, unless necessary.

### Example (Plain Text Font)

Incorrect:

*“HORTICULTURAL PRODUCE”* means fruits, vegetables, flowers or plants.

Correct:

“Horticultural produce” means fruits, vegetables, flowers or plants.

## Enforcement

Valid and effective enforcement mechanisms must be implemented in order for the law to fulfill its purpose. Where there is no enforcement, the law fails. When drafting legislation, consider the following enforcement mechanisms:

- **Sanctions:** Impose sanctions that are sufficiently severe to serve as a deterrent. Sanctions may be imposed by drafting and enforcing penal provisions. Penal provisions should include both a (i) statement of the prohibited act or omission and (ii) the sanction to be imposed for violation of the law, such as imprisonment or the payment of a fine or other penalties. Other penalties may include:
  - Barred access to certain government services or programs
  - Forced compliance with the law
  - Forced closure of business operations
- **Authority:** Consider who will be responsible for enforcing the law (i.e. labor administration, the judiciary, etc.) and ensure that there is a governmental body authorized to handle cases.

### Example (Enforcement Provisions)

Whoever commits any offence in contravention to Section 7 or 15, he shall be liable to a punishment with a fine up to five thousand rupees or with imprisonment for a term that may extend to one year or with both. In case of torture and cruel treatment, he may be made liable to pay reasonable amount of compensation to the Child.

*Children's Act, 2048 (1992) [Nepal]*

(1) Measures to ensure the effective application of the Minimum Age Convention, 1973, and of this Recommendation should include—

- (a) the strengthening as necessary of labour inspection and related services, for instance by the special training of inspectors to detect abuses in the employment or work of children and young persons and to correct such abuses; and
- (b) the strengthening of services for the improvement and inspection of training in undertakings.

*Recommendation Concerning Minimum Age for Admission to Employment ("ILO 146")*

## Sunset Clauses

A sunset clause is a provision that indicates the date in which the law will cease to remain in effect or expire (e.g. an expiry provision). This clause may also state whether the law would be reenacted by the appropriate authority. Sunset clauses are not used routinely; they are relatively uncommon.

### Example (Sunset Clause)

This Act comes into force on 1 January 1995 and continues in force for 3 years after that date.

This Act comes into force on 1 September 1996, and expires on 31 August 1998.



## Effective Date

An effective date is usually provided in an Act or law. The “effective date” is the date in which the Act or Law has been entered into effect. If the legislation has a general effective date, it is not necessary to include a separate provision that establishes an effective date. However, if the legislation does not include a general effective date or if the general provision allows for the establishment of a different effective date, then drafters must incorporate a separate provision that establishes an effective date.

### Example (Effective Date)

This Act shall become effective upon the date of enactment of this Act.

### Sample Structure of Proposed Legislation

Scope

The Child Labour (Prohibition and Regulation) Act (2000)

Title

Preamble:

Whereas, it is expedient to prohibit engaging children in factories, mines, or similar risky activities and to make necessary provisions with regard to their health, security, services and facilities while engaging them in other activities;

Section Headers

Be enacted by Parliament in the 29th year of reign of His Majesty's the King Birendra Bir Bikram Shahdev.

Enacting Clause

#### CHAPTER 1. PRELIMINARY

Section 1. Short Title and Commencement.

(1) This Act shall be called “The Child Labour (Prohibition and Regulation) Act, 2056.”

(2) This Act shall come into force on such date as Government of Nepal may appoint by a notification published in the Nepal Gazette.

Plain Text Font

Section 2. Definitions.

Unless the subject or context otherwise requires, in this Act, --

(a) “CHILD” means a minor not having completed the age of sixteen years.

(b) “ENTERPRISE” means any factory, organization, association, firm, company or their groups established as per prevailing law with objectives of operating any industry, business or service.

Definitions

## CHAPTER 2 – PROVISIONS RELATING TO ENGAGING A CHILD IN WORKS

## Section 3. Information to be Given.

(1) Entrepreneur who has been operating risky business or activities referred to in the schedule at the commencement of this Act shall, within thirty days of the date of commencement of this Act, furnish written information to the labor office having mentioned the following particulars; --

- (a) Name and Address of the Enterprise;
- (b) Name and Address of the Entrepreneur;
- (c) Nature of the business or activities conducted by the Enterprise, and
- (d) Other particulars as prescribed.

Numbering  
Sub-sections

Substance  
and Body

## CHAPTER 3 – PROVISIONS RELATING TO PUNISHMENT AND APPEALS

## Section 4. Punishment.

(1) Whoever commits any act in contravention of Sub-section (1) of section 3 shall be liable to a punishment of imprisonment of three months in maximum or a fine of Rs. 10,000/- in maximum or the both.

Enforce-  
ment

## CHAPTER 4 – MISCELLANEOUS

## Section 5. Expiration.

(1) This Act continues in force until 31 December 2020 and then expires unless the President, by order in the Nepal Gazette, extends its duration for such further period.

Sunset  
Clause

Effective  
Date

## Section 6. Effective Date

This Act shall become effective upon the date of enactment of this Act.

## 3.2.4 Style

Good legislative drafting should follow rules of style to improve the precision, accuracy, and clarity of the legislation. The rules of overall style ensure that the purpose of the legislation is clear and easily understood by a non-expert reader. These rules of style supplement the general rules of spelling, grammar, and punctuation.

**Precision and Accuracy**

The use of short sentences is preferable when drafting legislation. Each sentence should convey one single idea as it is easier for readers to understand and makes it easier to create citations. If the drafter needs to draft one sentence such that it conveys multiple obligations or requirements, it is helpful to the reader to break the sentence into steps or subsections.

- **State requirements clearly.** The drafter should state any requirements clearly and specifically. This can be achieved by (a) avoiding the passive voice, (b) making the person who must meet such requirement the subject of the sentence, and (c) stating each requirement or duty specifically and not through enforcement powers (i.e. state what each person is required to do instead of describing the consequences of what will happen to that person if they fail to

meet such requirements).

- **Exceptions.** Legislative materials should always lay out exceptions clearly; otherwise a law can be easy to misread. If a rule is drafted such that there are many exceptions, then the rule may be too broad. In that case, the drafter should rewrite such rule and make it more specific. If there are exceptions or conditions to a rule, the drafter should state that there is such exception or condition prior to stating the rule. This way such exception or condition will be easily noticed by the reader and will help to prevent the reader from missing that there is an exception or condition to that rule.
- **Gender-neutral.** The drafter should always present the legislative materials in a gender-neutral form, unless, of course, the drafter is describing the member of a particular gender.

### Examples of Stating Requirements Clearly

(a) “A Bill must be passed by a majority vote.” This sentence uses the passive voice and does not make clear who must pass the bill. In contrast, “The House of Representatives can pass a Bill by a majority vote” leaves no room for confusion.

(b) “A Bill can be assented to by the President.” This sentence could be made clearer by making the President the subject of the sentence: “The President can assent to a Bill.”

(c) “The bill will not be passed if it does not receive a majority vote.” This sentence could be made clearer by stating the requirement in the positive rather than the negative: “The Bill requires a majority vote to pass.”

### Examples of Drafting Exceptions

“An Employee is entitled to the benefits provided by this chapter unless Rule 9e applies.” This sentence could be made more precise and accurate by starting with the exception: “Except as provided by Rule 9e, an employee is entitled to the benefits provided by this chapter.”

## **Clarity of Language**

There are several conventions that drafters should follow in order to ensure that the legislation is clear and leaves no room for confusion:

- **Pronouns.** Unless the antecedent of a pronoun is unmistakable, pronouns can create undue ambiguity. Rather than use pronouns, repeat the noun that is the subject of the sentence. (e.g., “After one House passes a Bill, it is submitted to the other” is less specific and more ambiguous than “After one House passes a Bill, the Bill is submitted to the other House.”)
- **Present tense.** Always use the present tense when drafting legislation. This can be done by restricting the word “shall” to indicate a duty or obligation (e.g. “It shall be the duty of every person to observe this Constitution.”)
- **Plain language.** When drafting legislation, always use plain language and limit the use of “legalese.” Laws should be drafted so that they are understandable by those who are affected by such laws. As part of this principle, the drafters should also omit unnecessary words and jargon such as “hereby,” “hereinafter,” and “aforesaid,” as these words seldom add any clarity to the rule they are conveying.

- **Brevity.** Drafters also create clarity in legislation when they omit unnecessary words. This can be done by using verbs instead of noun phrases (e.g. use “pay” instead of “give payment to”) or avoiding traditional paired phrases when a single word of such phrase can be used (e.g. use “void” instead of “null and void”). The general principle is to use the shortest sentence that conveys the intended meaning of the rule.
- **Consistency.** Use consistent language throughout the legislation by using different terms for different meanings. Avoid using the same word or phrase to convey different meanings or using different words to convey the same meaning, as this creates ambiguity for the readers. The goal of drafting legislation is to be clear, and not to create variety in language to keep the readers interested.
- **Cross-references.** Aim to limit the use of cross-references to other sections in the legislation as it makes it difficult for the readers to understand upon the first reading. If possible, avoid forcing the reader to read multiple sections of legislation if the rule can be clearly stated in one place. In addition, the use of cross-references creates more work in future revisions of the legislation as each cross-reference will need to be checked to determine that it is still correct.

### 3.2.5 International Obligations

As a rule, when national governments agree to undertake the obligations of an international convention, they commit themselves to take the necessary legislative and administrative measures to fully ensure the rights guaranteed by such convention. Signing and ratifying an international convention is just a first step. National governments need to effectively implement the international convention within their domestic legal orders.

Normally, national laws contain provisions on how an international convention can be integrated into the domestic legal order. In most instances, the answer can be found in the national constitution. Essentially, governments can follow two different approaches. The first approach is admitting that the convention itself becomes part of the national law once the requirements for signature and ratification have been satisfied. The second approach is to give effect to international law provisions by transforming them into domestic law, directly or indirectly.

The legislative drafters should be aware of the options offered by their national law in order to ensure implementation of the provisions of the international convention in conformity with the fundamental principles of their own legal systems.

#### Direct Implementation

In this context, the ideal scenario would be to have the international convention itself as part of the national legal order with direct applicability - i.e., a scenario where rights and obligations can derive directly from the international convention and the international convention can be invoked before national courts and administrative authorities. More than that, in an ideal scenario the international convention also prevails whenever there is conflict between domestic legislation and the provisions of the convention.

A direct incorporation can be achieved by admitting that the convention itself becomes automatically part of the national law once the requirements for signature and ratification have been satisfied or by enacting a new law that incorporates the international convention into the

domestic legal system (e.g., including the international convention as a schedule endowing it full effect of law).

Nevertheless, a scenario of comprehensive incorporation and “self-execution” of the international convention is not always possible either because such approach is inconsistent with national laws or policy or because the convention is not sufficiently clear and detailed.

Moreover, even when a comprehensive incorporation is possible and occurs, the national government still needs to ensure that all relevant domestic law is brought into conformity with the international convention. In other words, the implementation of the international convention can only be regarded effective if the provisions of the international convention are given legal effect and the domestic legislation is in full compliance with the convention.

If the direct applicability of the international convention is, for any reason, excluded or insufficient in the legislative drafter domestic legal system, implementation may be carried out through new national laws or amendments of existing ones.

### **Indirect Implementation**

There are three legislative methods of giving effect to an international convention using an indirect approach. All of them rely on substantive provisions of the international convention, but differ in the manner that they deal with its text.

- *The legislation may contain no reference of any kind to the international convention but give effect to it by substantive provisions:* This situation normally occurs when it is considered that existing laws already implement the international convention. The main risk associated with this method is that the relevance of the international convention may be overlooked when the laws are being interpreted or amended. The legislative drafter should consider whether it is practical or not to introduce into the law specific mention to the international convention. For instance, a specific mention may not be practical when the implementation occurs through a combination of different national instruments (e.g., inclusion of articles in the national penal code).
- *The legislation may refer to the international convention and may give effect to it through substantial provisions that may or may not adopt some of the wording thereof:* If the drafter decides to use this method, the reference to the international convention must be presented prominently (e.g., not in an obscure definition). It is recommended to include a purpose provision or a specific long title making it clear that the intention of the law is to give effect to the international convention. Vague wording in this regard should be avoided.
- *The legislation may set out the international convention in a schedule or exhibit but for information or reference purposes only:* By using this method, the drafter would not endow the international convention with the force of law.

### **Practical considerations**

The drafter should also consider the following when drafting legislation to implement an international convention:

*Purpose:* The purpose of the legislation may be indicated at the title of the statute, in a preamble,

the long title or through a purpose provision. Purpose provisions are more desirable than titles or preambles.

- *Identification of parties:* Depending on the circumstances, it may be interesting to have identification of the parties of the international convention. In this case, the drafter may include a provision for certification or declaration of the countries that are parties of the convention. A substantive provision is better for this purpose than a definition.
- *Explanatory preambles:* A preamble may be a convenient means of including purely explanatory or background information.
- *Delegations:* Policies and principles of an international convention should always be adopted in primary legislation (if legislation is needed) but delegation of legislative power may be convenient to implement technical or procedural details or enable additions or amendments to the international convention to be implemented. The drafter should consider the convenience of including a provision about delegation when drafting the legislation.
- *Inconsistency of official text and the legislation text:* If the language of the legislation is not the original language of the international convention, the drafter should consider including a provision about which text must prevail in case of inconsistency. It is desirable to include that the language of the international convention will prevail.
- *Terms and expressions that may have different meanings in the convention and the domestic legislation:* The drafter can consider including a provision saying that the terms and expressions used in the legislation that are defined in the international convention shall have the meaning established in the convention, unless the context otherwise requires. Establishing consistency is sometimes helpful, but not required.

# Appendix



## Appendix. Section 1: Rapid Reference Cards

### Section 1.1 - Child Labor Definitions

#### Child Labor: Definitions Rapid Reference Card™

##### CHILD

Any person under the age of eighteen years.

*Convention on the Rights of the Child*

##### CHILD LABOR

All persons between the ages of 5-17 engaged in one or more of the following categories of activities:

- (a) **worst forms of child labor;**
- (b) **employment below the minimum age set by national law; or**
- (c) **hazardous unpaid household services.**

A child may be considered to be in child labor when the total number of hours worked in employment or unpaid household services exceeds the thresholds set by national laws.

##### WORST FORMS OF CHILD LABOR

The worst forms of child labor include:

- (a) **all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, as well as forced or compulsory labor, including forced or compulsory recruitment of children in armed conflict;**
- (b) **the use, procuring or offering of a child for prostitution, for the production of pornography or 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 that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of the children. Referred to as 'hazardous work'.**

Depending on national circumstances, countries may also wish to collect data on activities by children which are outside the general production boundary, such as begging and stealing.

*ILO Convention 182*

##### CHILDREN IN PRODUCTIVE ACTIVITIES

Children engaged in any activity falling within the *general production boundary* as defined in the System of National Accounts (SNA), i.e.:

- **children in employment;** and
- **children in other productive activities.**

System of National Accounts (SNA)

The internationally agreed standard set of recommendations on how to compile measures of economic activity.

##### CHILDREN IN EMPLOYMENT

Children in employment are:

- (1) those in child labor;
- (2) children aged 12 to 14 years in permissible light work; and
- (3) adolescents aged 15 to 17 years engaged in work not designated as one of the worst forms of child labor.

##### CHILDREN IN OTHER PRODUCTIVE ACTIVITIES

Children who perform unpaid household services, i.e., the production of domestic and personal services by a household member for the consumption within their own household, commonly called 'household chores'.

Does not include performance of the same activity for a third-party household.

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This material does not necessarily reflect the views or policies of the United States Department of Labor, nor does the mention of trade names, commercial products, or organizations imply endorsement by the United States Government

*Source, except as otherwise noted: International Labour Organization (ILO), Resolution II: Resolution Concerning Statistics of Child Labour (Dec. 5, 2008)*

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## Child Labor: Definitions Rapid Reference Card™

### HAZARDOUS WORK BY CHILDREN

The first three categories of the *worst forms of child labor* are considered worst forms of child labor “by definition”. The fourth category is considered “by condition”, and the criteria can vary according individual nation states. This fourth category is generally referred to as *hazardous work by children*.

Hazardous work is determined at the national level to be:

- (a) **work that 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, agent 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 in which the child is unreasonably confined to the premises of the employer.**

Hazardous work by children is statistically defined in terms of the engagement of children in activities of a hazardous nature (designated hazardous industries and occupations) as reflected in subparagraphs (a)–(d), or as work under hazardous conditions, for example, long hours of work in tasks and duties which by themselves may not be of a hazardous nature for children as reflected in subparagraph (e).

### DESIGNATED HAZARDOUS OCCUPATIONS AND INDUSTRIES FOR CHILDREN

Hazardous occupations for children shall be designated on the basis of national laws or regulations, where they exist. In addition to the list of occupations prohibited by legislation, designated hazardous occupations for children may be identified on the basis of recommendations from competent consultative bodies, or detailed analysis of the hazard content of occupations, for example, by examining the rate of occupational injuries and diseases among children below 18 years of age or by conducting specially designed surveys on the hazard content of occupations of children.

### LONG HOURS OF WORK

A child is considered to be working long hours of work if the total number of hours actually worked during the reference period (such as per day or per week) is above a specified threshold. The threshold may be determined in terms of maximum number of hours work that the national law or regulation sets for children who have reached the minimum working age. In the absence of such a specific limit for children, the threshold may be decided taking into account of the regulation on the adult workers' normal working time. Hours actually worked should be defined in accordance with the latest international standards on the topic.

### WORKING AT NIGHT

A child is considered to be working at night if the work schedule includes hours of work defined as night work prohibited for children under national legislation, where it exists. In the case of children, the period of time spent commuting between work and home should be considered as part of the work schedule.

### HAZARDOUS UNPAID HOUSEHOLD SERVICES

Work performed in the child's own household under conditions that render it hazardous work, such as (a) long hours; (b) dangerous locations; (c) dangerous equipment; etc.

### FORCED OR INDENTURED CHILD LABOR

All work by children that is:

- (1) exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or
- (2) performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

*Exec. Order No. 13,126, 64 Fed. Reg. 115 (U.S.)*

## Child Labor: Definitions Rapid Reference Card™

### MINIMUM AGE

The minimum age for admission to employment or work should not be less than the age of completion of compulsory schooling and, in any case, not less than 15 years.

An ILO member whose economy and educational facilities are insufficiently developed may, after consultation with the organizations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.

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

*ILO Convention 138*

### HOUSEHOLD AND ESTABLISHMENT SURVEYS

Designed to get a wide range of statistics on the socio-economic state of a household, not designed to measure specific forms of child labor such as hazardous or children living on the street.

An Important issue for a household and establishment survey is to confirm that answer are being given objectively, especially in relation to hours, time of day and any hazardous activity done by the child.

### BASELINE SURVEY

This study aims to identify the characteristics and consequences of child labor in specific industries and/or areas at different points in time. It is usually linked to intervention programs to combat child labor, and assists in the identification of project beneficiaries and in monitoring their withdrawal from work over time.

### RAPID ASSESSMENT SURVEY

For collecting information on children in hidden forms of child labor. Output is mainly qualitative, descriptive and limited to a small geographical area. The method is not applicable if the aim is to estimate the number of children in employment. It can provide relevant data on the causes, consequences and characteristics of the form of child labor being investigated.

UNICEF, *Investigating Child Labour: Guidelines for Rapid Assessment*, (Jan. 2000)

### EMPLOYMENT BELOW THE MINIMUM AGE: 'LIGHT WORK'

Where children in particular age groups are permitted to engage in "light work" under national legislation, **such work should be excluded from the definition of child labor**. According to Article 7 of ILO Convention No. 138, national laws or regulations may permit the work of persons from 13 years of age (or 12 years in countries that have specified the general minimum working age of 14 years) in light work which is:

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

While a restriction on weekly hours of work is required for this age group, the determination of the maximum number of hours is left to the competent national authorities.

In determining the hours threshold for permissible light work, national statistical offices should take into consideration the stipulations set forth in national legislation or, in their absence, use a **cut-off point of 14 hours during the reference week**, below which work can be considered permissible light work.

In addition to the hours maximum, the definition of permissible light work may involve other criteria in line with the conditions for light work set under national laws or regulations. **It may, for instance, limit its scope to the industries or occupations in which light work is permitted.** In any case, permissible light work should exclude all activities considered to be hazardous work for children.

*ILO Convention 138*

### STREET CHILDREN

Street children fall into two main categories:

- (a) those who live and work on the streets and do not have any other place of residence, and;
- (b) those who work on the streets but normally reside with their parents or guardians.

UNICEF, *A Study on Street Children in Zimbabwe, in ORPHANS AND OTHER VULNERABLE CHILDREN AND ADOLESCENTS IN ZIMBABWE (2001)*

# Child Labor: Definitions Rapid Reference Card™

## NOTE ON DEFINITIONS AND STATISTICS

International labor standards on child labor allow for exceptions to general prohibitions and provide flexibility for countries in their application. **There can therefore be no uniform legal definition of child labor for universal application.**

The ILO estimates that there are **168 million children** in child labor worldwide. **85 million children** are involved in the worst forms of child labor. It is important to note that these statistics do **NOT** include the worst forms of child labor other than hazardous work. The ILO estimates that 5.5 million children are involved in the worst forms of child labor other than hazardous work, such as forced labor, slavery and armed conflict.

Statistics on child labor can vary substantially, depending on the source. International statistics are formed by ILO member states providing the raw data, which sometimes vary greatly from estimates from other sources.

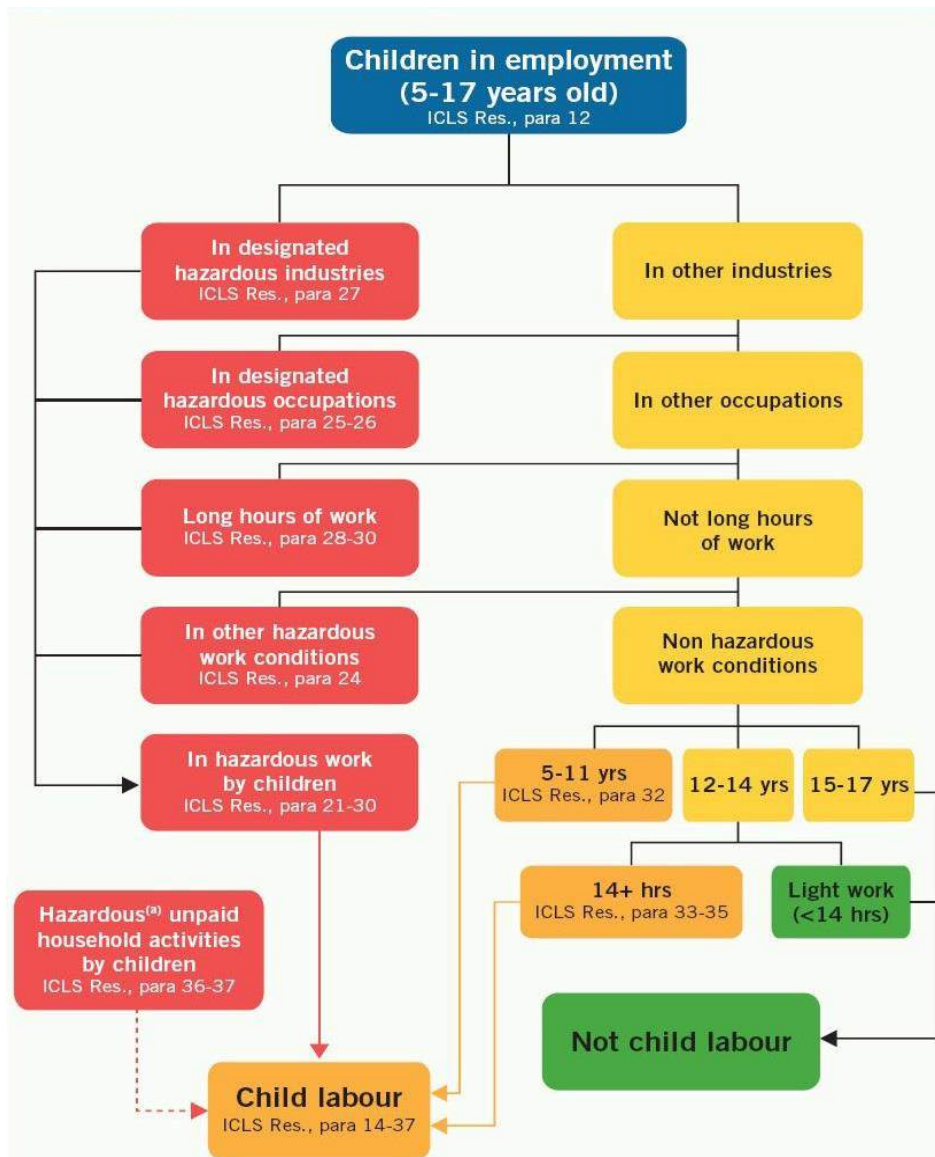


Chart taken from International Labor Organization, *Marking progress against child labour: Global estimates and trends 2000-2012*, © 2013

Source, except as otherwise noted: International Labour Organization (ILO), *Resolution II: Resolution Concerning Statistics of Child Labour* (Dec. 5, 2008)

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# Appendix. Section 1: Rapid Reference Cards

## Section 1.2 - Minimum Age for Employment

### Minimum Age for Employment: International and Domestic Law Rapid Reference Card™ • Liberia

#### MINIMUM AGE REGULATION

Liberia's minimum age for employment is **15 years**.....DWA § 21.2

##### ILO Convention No.138

- Liberia has not ratified the ILO's Convention No. 138 on Minimum Age ("C138")
- C138 provides that less developed nations may initially establish a minimum working age of 15, and that they should aim to raise this to 16 years.....I-R II(7)
- Member States must establish the same minimum age for employment in all sectors.....I-R II(6)

#### EXCEPTIONS TO THE CONVENTION

- C138 provides that certain exceptions may be made for participation in artistic performances or limited categories of employment in which special and substantial application problems arise.....I-C 4
- Persons 13 to 15 years of age may be engaged in "light work", which is work that is not likely to be harmful to their health or development and not likely to prejudice their school attendance or participation in certain vocational orientation or training programs.....I-C 7(1)

#### SCOPE OF THE CONVENTION

- C138 does not apply to work done by: children in training institutions for general, vocational or technical education.....I-C 6
- **Despite any exception, ILO C138 shall be applicable at a minimum to:** mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; plantations and certain specified agricultural undertakings.....I-C 5(3)

#### CONDITIONS OF EMPLOYMENT

C138 provides that special attention should be given to:

##### Fair Remuneration

- All women and men are entitled to equal remuneration, which means remuneration established without discrimination based on sex, for work of equal or comparable value.....DWA, § 2.5

##### Limitations and Restrictions of Working Hours:

- Under 16 years of age: no employment for more than 7 hours in any day, or more than 42 hours in any working week.....DWA, § 21.5

##### Rest Periods

- One or more daily rest periods totalling at least one hour. Prohibited to work over four consecutive hours .....DWA, § 21.5
- One daily rest period of at least twelve consecutive hours between ending and recommencing work.....DWA, § 17.9
- Weekly rest period of at least 36 consecutive hours which unless otherwise agreed in writing, shall include Sunday.....DWA, § 17.10

##### Annual holiday

- Children shall be entitled to the same annual leave as adults and to a further period of annual leave equivalent to the number of working days in one week.....DWA, § 21.5

##### Social Security Coverage

- Ten days paid sick leave for every year (accumulative throughout service) at same remuneration they would have received had they worked on that day.....DWA, § 19.2
- Three single days of paid sick leave in any period of twelve month's service with their employer, without the requirement to establish that they were unwell and for that reason unable to attend for work.....DWA, § 19.3

(cont'd on next page)

#### WORK AGES UNDER C138

	Ordinary Work	Light work	Hazardous work
<b><u>General rule</u></b> Not less than the age of completion of compulsory schooling and, in any case, not less than:	15	13	18 (16 provided that young persons are fully protected and have been given adequate instruction and vocational training.)
Where the economy and educational facilities are insufficiently developed	14	12	18 (16 provided that such young persons are fully protected and have been given adequate instruction and vocational training to undertake such work.)
Exceptions for developing countries	14 years	13 years	<b>NO EXCEPTIONS</b>

#### KEY:

**I-C** refers to ILO Convention No. 138 On The Minimum Age For Admission To Employment

**I-R** refers to ILO Recommendation No. 146 Concerning Minimum Age For Admission To Employment (1973)

**L-DWA** refers to Liberia's Decent Work Act (2015)



## Minimum Age for Employment: International and Domestic Law Rapid Reference Card™ • Liberia

### CONDITIONS OF EMPLOYMENT (CONT'D)

#### Liability for medical treatment

- Employer shall be liable for the payment of the reasonable expenses of medical treatment for any employee's work-related injury.....DWA, § 31.6

#### Duty of employer to formulate safety and health policy

- Duty of every employer or self-employed person to develop, as appropriate in consultation with employees, and with such other persons as the employer considers necessary, a policy relating to occupational safety and health.....DWA, § 25.2(a)
- The policy shall enable effective cooperation between the employer and the workers in promoting and developing measures to ensure the workers' safety and health and the organization and arrangements for the time being in force for carrying out that policy.....DWA, § 25.2(b)
- The policy shall provide adequate mechanisms for reviewing the effectiveness of the measures or the redesigning of the said policy, whenever appropriate.....DWA, § 25.2

### HAZARDOUS EMPLOYMENT

- Minimum age for employment likely to jeopardize the health, safety or morals of young persons ("**hazardous employment**") shall not be less than **18 years** ..... I-C 3(1)
- Such employment **may be permitted at age 16** where the health, safety and morals of young persons are protected and adequate instruction/training is provided ..... I-C 3(3)
- Such types of employment shall be determined by national laws, regulations or competent authority.....I-C 3(2)
- If minimum age for hazardous employment is below 18 years, immediate steps should be taken to raise it to 18.....I-R III(9)
- C138 provides that, in applying Art. 3 of C138, international labor standards should be considered, and the list should be regularly re-examined and updated if necessary.....I-R III(10)

#### Definition of 'Child'

A child is a person under the age of 18..... DWA, § 1(4)(c)

Where a minimum age is not immediately fixed, one should still be established for types of work that are hazardous ..... I-R III(11)

#### Types of work that are prohibited for children

The following types of work are prohibited for children:

- Work that exposes children to physical, psychological or sexual abuse.....DWA, § 21.4(a)(i)

(cont'd)

### HAZARDOUS EMPLOYMENT (CONT'D)

- Work underground, under water, at dangerous heights or in confined spaces.....DWA, § 21.4(a)(ii)
- Dangerous machinery, equipment and tools, or involving the manual handling or transport of heavy loads.....DWA, § 21.4(a)(iii)
- Work in an unhealthy environment which may, for example,
- Work that exposes children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health.....DWA, § 21.4(a)(iv)
- 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.....DWA, § 21.4(a)(v)

The Minister shall make regulations:

- Specifying further the types of work that may be prohibited to children under this section; .....DWA, § 21.4(b)(i)
- Identifying hazardous processes, temperatures, noise levels, or vibrations damaging to children's health.....DWA, § 21.4(b)(ii)

### ENFORCEMENT

C138 provides that necessary measures shall be taken to ensure the enforcement of the Convention..... I-C 9(1)

Special attention should be given to:

- Enforcement of provisions on hazardous types of work; and
- Prevention of employment of children during hours when instruction is available, in so far as education or training is compulsory ..... I-R V(15)

Member States should strengthen as necessary labour inspection and related services, for instance through special training of inspectors..... I-R V(14)(1)(a)

Member States shall prescribe the registers that shall be made available by the employer, which shall contain the names and ages/dates of birth, certified wherever possible, of persons who employees who are under 18 years of age..... I-C 9(3)

For verification of ages, Member States should:

- Maintain an effective system of birth registration,
- Require employers to keep and make available relevant records, and
- Issue licenses to children working in situations where checking employer records is impracticable..... I-R V(16)

An employer must:

- Keep a register of all employed children, which shall clearly show their names, ages and dates of birth, duly certified wherever possible..... DWA, § 21.5 (d)
- Keep the records throughout the employment of any child, and for a period of 5 years following the termination of their employment ..... DWA, § 21.5 (e)

#### KEY:

**I-C** refers to ILO Convention No. 138 On The Minimum Age For Admission To Employment

**I-R** refers to ILO Recommendation No. 146 Concerning Minimum Age For Admission to Employment (1973)

**L-DWA** refers to Liberia's Decent Work Act (2015)



# Appendix. Section 1: Rapid Reference Cards

## Section 1.3 - Hazardous Work

### Child Labour: Hazardous Work Rapid Reference Card™ • Liberia

#### ILO CONVENTION NO. 182 ON THE WORST FORMS OF CHILD LABOUR (1999)

##### ABOUT THE CONVENTION

**Adopted by:** International Labour Organization (ILO)

**Full name:** Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

**Effective:** 19 November 2000 **Ratified by Liberia:** 02 June 2003

##### DEFINITION OF TERMS

**"Child"** means any person **under the age of 18** ..... 2  
**"Worst Forms of Child Labour"** (WFCL) include:

- All forms of **slavery** and similar practices, such as child trafficking, debt bondage, compulsory labour, and forced recruitment of children into armed conflict ..... 3(a)
- Using, procuring, or offering a child for **prostitution**, or for producing **pornography** or similar performances ..... 3(b)
- Using, procuring, or offering a child for **illicit activities**, particularly the production or trafficking of **drugs** ..... 3(c)
- Work likely to harm the **health, safety, or morals** of children. 3(d)

##### WORST FORMS OF CHILD LABOUR

**The types of work likely to harm the health, safety, or morals of children shall be determined by national laws or competent authority**, taking relevant international standards into consideration ..... 4(1)

- The list of these types of work shall be periodically examined and revised as necessary ..... 4(3)
- In ratifying ILO C182, Liberia has committed to taking measures to:
- **Prevent WFCL** ..... 7(2)(a)
  - **Remove** children from WFCL and provide for their **rehabilitation** and social integration ..... 7(2)(b)
  - Ensure **free education** and, when possible, vocational training for children removed from WFCL ..... 7(2)(c)
  - Identify and reach out to **special risk** children ..... 7(2)(d)
  - Consider the special situation of **girls** ..... 7(2)(e)

#### ILO RECOMMENDATION NO. 190 ON THE WORST FORMS OF CHILD LABOUR (1999)

##### ABOUT THE RECOMMENDATION

This Recommendation is intended to supplement the provisions of Convention No. 182 (see above), to which Liberia is a party.

##### HAZARDOUS WORK

In determining WFCL, consideration should be given to work:

- That exposes children to physical, psychological, or sexual **abuse** ..... 3(a)
- Done **underground, underwater**, at dangerous **heights**, or in **confined** spaces ..... 3(b)
- Involving dangerous **machinery, equipment, and tools**, or the manual handling or transport of **heavy loads** ..... 3(c)
- In an **unhealthy environment**, e.g. those that may expose children to hazardous substances or processes, or to temperatures, noise levels, or vibrations damaging to their health ..... 3(d)
- Under particularly **difficult conditions**, e.g. long hours, night work, or unreasonable confinement ..... 3(e)

For these hazardous types, national laws may authorize work from the **age of 16** if **health, safety, and morals are protected, and specific instruction or training is provided** ..... 4

##### IMPLEMENTATION

The following WFCL should be deemed criminal offenses:

- All forms of **slavery** or practices similar to slavery ..... 12(a)
- Involving a child in **prostitution** or **pornography** ..... 12(b)
- Involving a child in **illicit activities**, particularly drug production or trafficking ..... 12(c)

Member states should **prosecute and register** those involved in the offenses listed above ..... 11

National laws or the competent authority should determine the **persons to be held responsible** in case of noncompliance with national provisions against WFCL ..... 10

Member states should ensure that **penalties are applied** for violations of national provisions against WFCL, e.g. special supervision of enterprises that have used WFCL and, in cases of persistent violation, temporary or permanent revoking of permits to operate ..... 13-14

##### HAZARDS COMMON TO MANY SECTORS

- **Long hours**
- **Sharp objects**
- **Prolonged outside exposure**
- **Strong or toxic chemicals**
- **Heavy loads**
- **Dusty environment**
- **Isolation**
- **Exposure to loud noises or vibrations**
- **Exposure to sexual abuse or exploitation**

Citation numbers within a section refer to articles of the document discussed under that section.

## Child Labour: Hazardous Work Rapid Reference Card™ • Liberia

### SECTORS AND ACTIVITIES HIGHLY SUSCEPTIBLE TO HAZARDOUS CHILD LABOR

#### SERVICES

17.4% of working children aged 5-14 in Liberia work in the service sector

Specific activities:

- **Domestic work**
- **Work in commercial services**, e.g. entertainment or dining
- **Street work**, e.g. vending, begging, hawking goods

Hazardous tasks in these areas include:

- **Household chores and maintenance** involving sharp equipment or tools, and/or toxic chemicals
- **Cleaning** with strong or toxic chemicals
- **Cooking** with sharp blades, hot pans, stoves, or other appliances inappropriate for the age or strength of the child
- **Gardening**
- **Use of a lawnmower, tractor or related appliance or vehicle**
- **Gathering fuel, water, or groceries**
- **Scavenging**
- **Garbage collection**
- **Street trading or begging**
- **Work in restaurants** involving dishwashing, cleaning floors or scrubbing toilets
- **Work in lewd shows, cabarets, dance halls, bath houses, massage clinics or escort services**
- **Entertainment**, such as bartending, massaging, dancing and / or waiting tables in establishments serving alcohol
- **Dealing or taking bets in casinos**

#### INDUSTRY

4.2% of working children aged 5-14 in Liberia work in the industry sector

Specific activities include:

- Mining for **diamonds** and **gold**
- Cutting and crushing **stone**
- **Construction**

Hazardous tasks in these industries include:

- **Tunnelling**
- **Digging or hand-picking ore, slabs, rock, or sand**
- **Crushing and amalgamating, sieving, washing, and sorting stone**
- **Removing waste or water from mines**
- **Selling goods and services to miners**
- **Mineral extraction and quarrying**
- **Lead extraction**

#### INDUSTRY CONT.

- **Painting**
- **Work with earth movers**
- **Work with nail pistons**
- **Welding**
- **Engineering**
- **Freezing materials**
- **Drilling**
- **Construction, demolition or excavation**
- **Carpentry**
- **Drilling**
- **Maintenance of machinery used for any of the above.**

#### AGRICULTURE

78.4% of working children aged 5-14 in Liberia work in the agricultural sector

Specific activities include:

- Production of **rubber**
- Production of **charcoal**
- **Farming** activities, e.g. production of cocoa, coffee, or cassava and / or the slaughter of animals

Hazardous tasks in these industries include:

- **Carrying heavy loads** unsuitable to the child's age and / or physical development
- **Weeding and harvesting**
- **Caring for and/or slaughtering farm animals**
- **Hunting wildlife**
- **Herding cattle**
- **The processing and preservation of fish and meat products**
- **Work in any way connected to fishing**, including deep-sea fishing and diving to chase fish into nets.
- **Handling, mixing, or spraying agrochemicals**, including pesticides, herbicides and insecticides
- **Climbing trees**, e.g. to trim the trees, to pick fruit or to collect latex from rubber trees
- **Using sharp or motorized farm tools**
- **Driving tractors or other farm machinery**
- **Tilling soil**
- **Work involving woodworking machines**, circular saws, guillotine saws, files, grinders or mixers
- **The installation, excavation, cleaning, or repair of a well**
- **The preservation of food or other perishables by freezing**
- **Adding chemicals to masticated rubber**
- **Vulcanizing rubber at high temperatures**
- **Arduous outdoor work** involving heavy lifting, pulling, pushing or any other type of related labor

Sources: ILO International Programme on the Elimination of Child Labour, "Children in hazardous work: What we know, what we need to do" (2011); United States Department of Labor, "2015 Findings on the Worst Forms of Child Labor"

## Child Labour: Hazardous Work Rapid Reference Card™ • Liberia

### INTERNATIONAL EXAMPLES OF HAZARDOUS WORK REGULATION FOR CHILDREN

#### HOURS REGULATION

##### Education

**USA:** Workers under the age of 16 must have hours confined to periods that will not interfere with their schooling .....*Fair Labor Standards Act 29 U.S.C. §203(1)*

**Norway:** Children who are under 15 years of age or are attending compulsory education shall not work between 20:00 and 06:00 ..... *Working Environment Act §11-3(2)*

##### Health / Wellbeing

**Norway:** Workers between 15 and 18 years of age who are not attending compulsory education shall have an off-duty period of at least 8 hours, including the time between 23:00 and 06:00 ..... *Working Environment Act §11-3(2)*

**Liberia:** A child who has not yet attained the age of 16 years may not be employed for more than 7 hours in any day, or for more than 42 hours in any working week... *Decent Work Act § 21(5)*

**India:** No child shall be permitted to work between 19:00 and 08:00, to work overtime, or to work in an establishment on a day when she or he has already been working in another establishment .....*Act No. 61 of 1986, §7*

#### MINIMUM AGE

##### Education

**Ghana:** Minimum age for a child to do light work is 13 years. Light work is defined as work that is not likely to be harmful to the child's health or development and that does not affect her or his capacity to benefit from school work .....*Act 560, §90*

**Sierra Leone:** Minimum age for a child to begin an apprenticeship is the later of 15 years or completion of basic education ..... *The Child Rights Act, §135*

##### Health / Wellbeing

**China:** Recruitment of workers under the age of 16 is illegal, under penalty of a fine per child worker per month of employment, repatriation of child workers at employer's expense, and possible revocation of business license. ....*Regulations Banning Child Labour, Art. 2*

**Ghana:** Minimum age for hazardous work is 18 years. Work is defined as hazardous when it poses a danger to the health, safety, or morals of a person .....*Act 560, §91(1-2)*

### LIMITATIONS ON TYPES OF BUSINESS

#### Vulnerability to Sexual Exploitation

**Liberia:** Children are prohibited from work that exposes them to physical, psychological or sexual abuse. ....*Decent Work Act § 21(4)*

**Ghana:** Hazardous work includes work in places where a person may be exposed to immoral behaviour, e.g. bars, hotels, or places of entertainment. ....*Act 560, §91(3)(f)*

**Korea:** Entertainment establishments are prohibited from hiring persons less than 19 years of age .....*Juvenile Protection Act, Art. 5, 24, 50*

#### Exposure to Dangerous Substances

**Liberia:** Children are prohibited from work that exposes them to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health .....*Decent Work Act § 21(4)*

**Ghana:** Hazardous work includes industries where chemicals are produced or used .....*Act 560, §91(3)(d)*

**Nepal:** No one may engage a child in the sale, distribution, or smuggling of intoxicating substances .....*Rules 2062, Sch. 1E*

**Cote D'Ivoire:** Children may not work with agricultural chemicals, veterinary products, septic tanks, or household refuse .....*Arrêté n° 2017-017, Art. 7*

#### Dangerous Environments

**Cote D'Ivoire:** Children may not work in forging, dyeing, construction, or leather tanning .....*Arrêté n° 2017-017, Art. 7*

**Ghana:** Hazardous work includes going to sea, mining, and quarrying .....*Act 560, §91(3)(a-b)*

### LIMITATIONS ON TYPES OF WORK

#### Dangerous Environments

**Costa Rica:** Work in which a minor is responsible for his / her own safety or the safety of others is prohibited. ....*Childhood and Adolescence Code, Art. 94*

**Nepal:** No child may work underground, underwater, or at excessive height. ....*Rules 2062, Sch. 1E*

**Jordan:** Work in dusty, noisy, or extremely hot or cold environments is forbidden .....*Labor Code No. 8 of 1996*

#### Dangerous Tools or Heavy Loads

**USA:** Minors are prohibited from operating power-driven machines .....*29 CFR Part 570, Subpart E*

**Liberia:** No child may work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads. ....*Decent Work Act § 21(4)*

**Ghana:** Hazardous work includes portage of heavy loads. ....*Act 560, §91(3)(c)*

Citation numbers within a section refer to articles of the document discussed under that section.

# Appendix. Section 1: Rapid Reference Cards

## Section 1.4 - Light Work

### Child Labour: Light Work Rapid Reference Card™ • Liberia

#### ILO CONVENTION 138 ON MINIMUM AGE

##### MINIMUM AGE FOR LIGHT WORK

Notwithstanding the general minimum age for employment, Member States may permit persons 13 to 15 years of age to engage in "light work".....7(1)

Less developed nations may adopt regulations permitting persons 12 to 14 years of age to engage in light work.....7(4)

##### LIGHT WORK

Light work is work that:

- Is not likely to be harmful to a child's health or development; and.....7(1)(a)
- Does not prejudice the child's attendance at school or participation in vocational training programs.....7(1)(b)

##### DECENT WORK ACT

Children at least **13 years of age** may perform light work

- For up to 2 hours per day
- For no more than 14 hours per week

Light work is work that:

- Is not likely to be harmful to a child's health safety, moral or material welfare or development; and
- Will not prejudice the child's attendance at school or their capacity to benefit from instruction.....Decent Work Act (2015) 21.3

#### INTERNATIONAL EXAMPLES OF PERMISSIBLE LIGHT WORK BY SECTOR

##### LIGHT DOMESTIC WORK

**Guinea:** Apprenticeships as a kitchen boy, kitchen assistant, errand boy, babysitter.....*Elimination of Child Labor, Protection of Children and Young Persons Art. 419*

**UK:** Domestic work in hotels and other establishments offering accommodation, babysitting.....*Guidance on the Employment of Children at 7, 18*

##### AGRICULTURAL WORK

**Democratic Republic of the Congo:** Harvesting grain, leaves (vegetables) and fruits except bananas and coconuts unless the harvesting is done on the ground; manual deseeding of fruits and grains; sorting vegetables; preparing a nursery; caring for small and barnyard animals.....*Ministerial Order No. 12 of 2008*

**Ivory Coast:** Measure, sort, dry, collect, plant, cut strip, harvest, fruits, vegetables, grains, and firewood.....*Order No. 2017-016 MEPS/CAB of June 2, 2017 Art. 2*

##### COMMERCIAL SETTING

**Democratic Republic of the Congo:** Selling newspapers and peddling that does not include transporting heavy merchandise; surveillance practiced by orderly bellboys, doormen, and day guards.....*Ministerial Order No. 12 of 2008*

**Ivory Coast:** Selling products in shops (except alcohol); arrange light goods in store aisles (except flammable goods); waiting or cleaning tables (except alcohol); washing dishes.....*Order No. 2017-016 MEPS/CAB of June 2, 2017 Art. 2*

**UK:** Delivery of newspapers, shop work including shelf stacking, hairdressing salons, office work or work in a restaurant or café (provided work is not done a kitchen).....*Guidance on the Employment of Children at 7*

##### OTHER WORK

**Democratic Republic of the Congo:** Basketwork.....*Ministerial Order No. 12 of 2008*

**Ivory Coast:** Ginning and spinning.....*Order No. 2017-016 MEPS/CAB of June 2, 2017 Art. 2*

**India:** Assisting family in non-hazardous work after school hours or during school breaks.....*Child Labour Prohibition and Regulation Amendment Act of 2016 Sec. 5*

Sources: The Department for Children, Schools and Families (UK), "Guidance on the Employment of Children" (2009).

Citation numbers within a section refer to articles of the document discussed under that section.

## Appendix. Section 2: International Conventions and Obligations Addressing Child Labor

There are four essential international conventions and obligations addressing child labour. These include: the Convention Concerning Minimum Age for Admission to Employment, the Convention on the Worst Forms of Child Labour, the Recommendation Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, and the United Nations Convention on the Rights of the Child.

### 2.1 ILO 138 - The Convention Concerning Minimum Age for Admission to Employment

The International Labor Organization (“ILO”) C138, the Convention Concerning Minimum Age for Admission to Employment (“ILO 138”), was adopted by the ILO on June 26, 1973 and entered into force three years later, on June 19, 1976. To date, 168 countries have ratified the Convention. Though ILO 138 was adopted with a view towards the total abolition of child labor, the ILO recognized that an effective way to ensure that children do not start working at a young age is to regulate the age at which children can legally enter the workforce. Additionally, ILO 138 was adopted as a general convention to apply across all economic sectors, thus aiming to replace the previous ad hoc system of industry-specific conventions addressing the issue of minimum age.

The Convention outlines specific obligations of ratifying states with respect to minimum age requirements. Such obligations include: the establishment of national policies “designed to ensure the effective abolition of child labor and to raise progressively the minimum age for admission to employment”; the requirement that all ratifying states establish a minimum age of no less than 15 years; the establishment of the minimum age for hazardous work at 18 years; the requirement for states to define hazardous work in consultation with organizations representing employers and workers; and the requirement that all ratifying states establish effective enforcement mechanisms to ensure compliance with the Convention.

The drafters of ILO 138 recognized that in some developing countries the immediate application of a universal minimum age of 15 years may be untenable. Therefore, the Convention allows states “whose economy and educational facilities are insufficiently developed” to initially specify a minimum age of 14 years. Similarly, ILO 138 allows those countries to initially limit the scope of the Convention if necessary. However, such restrictions are intended to be temporally limited, and states that avail themselves of such provisions must regularly justify their restrictions to the ILO, or otherwise comply with the generally applicable measures established by the Convention.

#### **Preamble**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-eighth Session on 6 June 1973, and



Having decided upon the adoption of certain proposals with regard to minimum age for admission to employment, which is the fourth item on the agenda of the session, and

Noting the terms of the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965, and

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

Having determined that these proposals shall take the form of an international Convention, adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-three the following Convention, which may be cited as the Minimum Age Convention, 1973:

## **Article 1**

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

## **Article 2**

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

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

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

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

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

(a) that its reason for doing so subsists; or



(b) that it renounces its right to avail itself of the provisions in question as from a stated date.

### **Article 3**

1. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.
2. The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.
3. Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

### **Article 4**

1. In so far as necessary, the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, may exclude from the application of this Convention limited categories of employment or work in respect of which special and substantial problems of application arise.
2. Each Member which ratifies this Convention shall list in its first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation any categories which may have been excluded in pursuance of paragraph 1 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the position of its law and practice in respect of the categories excluded and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.
3. Employment or work covered by Article 3 of this Convention shall not be excluded from the application of the Convention in pursuance of this Article.

### **Article 5**

1. A Member whose economy and administrative facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially limit the scope of application of this Convention.
2. Each Member which avails itself of the provisions of paragraph 1 of this Article shall specify, in a declaration appended to its ratification, the branches of economic activity or types of undertakings to which it will apply the provisions of the Convention.
3. The provisions of the Convention shall be applicable as a minimum to the following: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing

for local consumption and not regularly employing hired workers.

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

(a) shall indicate in its reports under Article 22 of the Constitution of the International Labour Organisation the general position as regards the employment or work of young persons and children in the branches of activity which are excluded from the scope of application of this Convention and any progress which may have been made towards wider application of the provisions of the Convention;

(b) may at any time formally extend the scope of application by a declaration addressed to the Director-General of the International Labour Office.

## **Article 6**

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

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

(b) a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or

(c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

## **Article 7**

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

(a) not likely to be harmful to their health or development; and

(b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

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

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

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

in paragraph 2 of this Article.

### **Article 8**

1. After consultation with the organisations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.
2. Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.

### **Article 9**

1. All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.
2. National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention.
3. National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.

### **Article 10**

1. This Convention revises, on the terms set forth in this Article, the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965.
2. The coming into force of this Convention shall not close the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, or the Minimum Age (Underground Work) Convention, 1965, to further ratification.
3. The Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, and the Minimum Age (Trimmers and Stokers) Convention, 1921, shall be closed to further ratification when all the parties thereto have consented to such closing by ratification of this Convention or by a declaration communicated to the Director-General of the International Labour Office.
4. When the obligations of this Convention are accepted--
  - (a) by a Member which is a party to the Minimum Age (Industry) Convention (Revised), 1937, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this

Convention, this shall ipso jure involve the immediate denunciation of that Convention,

(b) in respect of non-industrial employment as defined in the Minimum Age (Non-Industrial Employment) Convention, 1932, by a Member which is a party to that Convention, this shall ipso jure involve the immediate denunciation of that Convention,

(c) in respect of non-industrial employment as defined in the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, by a Member which is a party to that Convention, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention,

(d) in respect of maritime employment, by a Member which is a party to the Minimum Age (Sea) Convention (Revised), 1936, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to maritime employment, this shall ipso jure involve the immediate denunciation of that Convention,

(e) in respect of employment in maritime fishing, by a Member which is a party to the Minimum Age (Fishermen) Convention, 1959, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to employment in maritime fishing, this shall ipso jure involve the immediate denunciation of that Convention,

(f) by a Member which is a party to the Minimum Age (Underground Work) Convention, 1965, and a minimum age of not less than the age specified in pursuance of that Convention is specified in pursuance of Article 2 of this Convention or the Member specifies that such an age applies to employment underground in mines in virtue of Article 3 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention,

if and when this Convention shall have come into force.

#### 5. Acceptance of the obligations of this Convention--

(a) shall involve the denunciation of the Minimum Age (Industry) Convention, 1919, in accordance with Article 12 thereof,

(b) in respect of agriculture shall involve the denunciation of the Minimum Age (Agriculture) Convention, 1921, in accordance with Article 9 thereof,

(c) in respect of maritime employment shall involve the denunciation of the Minimum Age (Sea) Convention, 1920, in accordance with Article 10 thereof, and of the Minimum Age (Trimmers and Stokers) Convention, 1921, in accordance with Article 12 thereof,

if and when this Convention shall have come into force.

### **Article 11**

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

**Article 12**

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

**Article 13**

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

**Article 14**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

**Article 15**

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

**Article 16**

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

**Article 17**

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

(a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

## **Article 18**

The English and French versions of the text of this Convention are equally authoritative.



## 2.2 ILO 146 - Recommendation Concerning Minimum Age for Admission to Employment

The International Labor Organization (“ILO”) Recommendation 146, the Recommendation Concerning Minimum Age for Admission to Employment (“ILO 146”), was adopted by the ILO on June 26, 1973 as a recommendation to The Convention on the Minimum Age for Admission to Employment (“ILO 138”). ILO 146 was drafted as a supplement to ILO 138 to enhance the provisions of the Convention. Therefore, while ILO 146 is intended to be applied “in conjunction” with the Convention—which is binding upon its 168 signatories—as a recommendation, it does not have binding force. Nepal has not ratified Recommendation No. 146.

The Recommendation further defines certain policy elements concerning the minimum age for admission to employment. ILO 146 focuses on the implementation of national policy, which is intended to abolish child labor and raise the minimum age for admission to employment. ILO 146 outlines specific areas where significant attention should be placed to ensure successful planning and policy, such as the following: employment oriented development, economic and social measures to alleviate poverty, social security and family welfare, and development of adequate educational facilities, etc. ILO 146 also recommends that national policy focus on the needs of orphaned and migrant children and mandate full-time school attendance or attendance in an approved vocational or training program.

The Recommendation strongly suggests that signatories take urgent steps toward raising the minimum age for admission to employment for all economic activity to age 16 (or age 15 for those countries meeting certain conditions). ILO 146 also recommends raising the minimum age for work that “is likely to jeopardise the health, safety or morals of young persons” to age 18. ILO 146 defines this type of work as “hazardous employment or work.”

The Recommendation further outlines specific areas where significant attention should be placed on improving conditions of employment, such as adhering to the principle of equal pay for equal work, limiting working hours to eliminate interference with schooling, and maintaining health and safety standards. Finally, ILO 146 discusses measures to enforce the Minimum Age Convention (ILO 138) and the Recommendation itself.

### Preamble

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-eighth Session on 6 June 1973, and

Recognising that the effective abolition of child labour and the progressive raising of the minimum age for admission to employment constitute only one aspect of the protection and advancement of children and young persons, and

Noting the concern of the whole United Nations system with such protection and advancement, and

Having adopted the Minimum Age Convention, 1973, and

Desirous to define further certain elements of policy which are the concern of the International Labour Organisation, and

Having decided upon the adoption of certain proposals regarding minimum age for admission to employment, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Minimum Age Convention, 1973,

adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-three, the following Recommendation, which may be cited as the Minimum Age Recommendation, 1973:

### **National Policy**

(1) To ensure the success of the national policy provided for in Article 1 of the Minimum Age Convention, 1973, high priority should be given to planning for and meeting the needs of children and youth in national development policies and programmes and to the progressive extension of the inter-related measures necessary to provide the best possible conditions of physical and mental growth for children and young persons.

(2) In this connection special attention should be given to such areas of planning and policy as the following:

(a) firm national commitment to full employment, in accordance with the Employment Policy Convention and Recommendation, 1964, and the taking of measures designed to promote employment-oriented development in rural and urban areas;

(b) the progressive extension of other economic and social measures to alleviate poverty wherever it exists and to ensure family living standards and income which are such as to make it unnecessary to have recourse to the economic activity of children;

(c) the development and progressive extension, without any discrimination, of social security and family welfare measures aimed at ensuring child maintenance, including children's allowances;

(d) the development and progressive extension of adequate facilities for education and vocational orientation and training appropriate in form and content to the needs of the children and young persons concerned;

(e) the development and progressive extension of appropriate facilities for the protection and welfare of children and young persons, including employed young persons, and for the promotion of their development.

(3) Particular account should as necessary be taken of the needs of children and young persons who do not have families or do not live with their own families and of migrant children and young persons who live and travel with their families. Measures taken to that end should include the provision of fellowships and vocational training.

(4) Full-time attendance at school or participation in approved vocational orientation or training programmes should be required and effectively ensured up to an age at least equal to that specified for admission to employment in accordance with Article 2 of the Minimum Age Convention, 1973.

(5)

(a) Consideration should be given to measures such as preparatory training, not involving hazards, for types of employment or work in respect of which the minimum age prescribed in accordance with Article 3 of the Minimum Age Convention, 1973, is higher than the age of completion of compulsory full-time schooling.

(b) Analogous measures should be envisaged where the professional exigencies of a particular occupation include a minimum age for admission which is higher than the age of completion of compulsory full-time schooling.

### **Minimum Age**

(6) The minimum age should be fixed at the same level for all sectors of economic activity.

(7)

(1) Members should take as their objective the progressive raising to 16 years of the minimum age for admission to employment or work specified in pursuance of Article 2 of the Minimum Age Convention, 1973.

(2) Where the minimum age for employment or work covered by Article 2 of the Minimum Age Convention, 1973, is still below 15 years, urgent steps should be taken to raise it to that level.

(8) Where it is not immediately feasible to fix a minimum age for all employment in agriculture and in related activities in rural areas, a minimum age should be fixed at least for employment on plantations and in the other agricultural undertakings referred to in Article 5, paragraph 3, of the Minimum Age Convention, 1973.

### **Hazardous Employment of Work**

(9) Where the minimum age for admission to types of employment or work which are likely to jeopardise the health, safety or morals of young persons is still below 18 years, immediate steps should be taken to raise it to that level.

(10)

(1) In determining the types of employment or work to which Article 3 of the Minimum Age Convention, 1973, applies, full account should be taken of relevant international labour standards, such as those concerning dangerous substances, agents or processes (including ionising radiations), the lifting of heavy weights and underground work.

(2) The list of the types of employment or work in question should be re-examined periodically and revised as necessary, particularly in the light of advancing scientific and technological knowledge.

(11) Where, by reference to Article 5 of the Minimum Age Convention, 1973, a minimum age is not immediately fixed for certain branches of economic activity or types of undertakings, appropriate minimum age provisions should be made applicable therein to types of employment or work presenting hazards for young persons.

### **Conditions of Employment**

(12)

(1) Measures should be taken to ensure that the conditions in which children and young persons under the age of 18 years are employed or work reach and are maintained at a satisfactory standard. These conditions should be supervised closely.

(2) Measures should likewise be taken to safeguard and supervise the conditions in which children and young persons undergo vocational orientation and training within undertakings, training institutions and schools for vocational or technical education and to formulate standards for their protection and development.

(13)

(1) In connection with the application of the preceding Paragraph, as well as in giving effect to Article 7, paragraph 3, of the Minimum Age Convention, 1973, special attention should be given to—

(a) the provision of fair remuneration and its protection, bearing in mind the principle of equal pay for equal work;

(b) the strict limitation of the hours spent at work in a day and in a week, and the prohibition of overtime, so as to allow enough time for education and training (including the time needed for homework related thereto), for rest during the day and for leisure activities;

(c) the granting, without possibility of exception save in genuine emergency, of a minimum consecutive period of 12 hours' night rest, and of customary weekly rest days;

(d) the granting of an annual holiday with pay of at least four weeks and, in any case, not shorter than that granted to adults;

(e) coverage by social security schemes, including employment injury, medical care and sickness benefit schemes, whatever the conditions of employment or work may be;

(f) the maintenance of satisfactory standards of safety and health and appropriate instruction and supervision.

(2) Subparagraph (1) of this Paragraph applies to young seafarers in so far as they are not covered in respect of the matters dealt with therein by international labour Conventions or Recommendations specifically concerned with maritime employment.

## Enforcement

(14)

(1) Measures to ensure the effective application of the Minimum Age Convention, 1973, and of this Recommendation should include—

(a) the strengthening as necessary of labour inspection and related services, for instance by the special training of inspectors to detect abuses in the employment or work of children and young persons and to correct such abuses; and

(b) the strengthening of services for the improvement and inspection of training in undertakings.

(2) Emphasis should be placed on the role which can be played by inspectors in supplying information and advice on effective means of complying with relevant provisions as well as in securing their enforcement.

(3) Labour inspection and inspection of training in undertakings should be closely co-ordinated to provide the greatest economic efficiency and, generally, the labour administration services should work in close co-operation with the services responsible for the education, training, welfare and guidance of children and young persons.

(15) Special attention should be paid—

(a) to the enforcement of provisions concerning employment in hazardous types of employment or work; and

(b) in so far as education or training is compulsory, to the prevention of the employment or work of children and young persons during the hours when instruction is available.

(16) The following measures should be taken to facilitate the verification of ages:

(a) the public authorities should maintain an effective system of birth registration, which should include the issue of birth certificates;

(b) employers should be required to keep and to make available to the competent authority registers or other documents indicating the names and ages or dates of birth, duly certified wherever possible, not only of children and young persons employed by them but also of those receiving vocational orientation or training in their undertakings;

(c) children and young persons working in the streets, in outside stalls, in public places, in itinerant occupations or in other circumstances which make the checking of employers' records impracticable should be issued licences or other documents indicating their eligibility for such work.

## 2.3 ILO 182 - The Convention on the Worst Forms of Child Labor

The International Labor Organization (“ILO”) C182, the Convention on the Worst Forms of Child Labor (“ILO 182”), was adopted by the ILO on June 17, 1999 and entered into force almost one-and-a-half years later, on November 19, 2000. To date, 180 countries have ratified the Convention. ILO 182 was drafted and ratified as a “complement” to the Convention Concerning Minimum Age for Admission to Employment, with the aim of “prohibit[ing] and eliminate[ing] . . . the worst forms of child labor.” The drafters recognized that particularly harsh forms of child labor are uniquely detrimental to children’s health and development, and therefore States must take specific measures not only to eliminate these “worst forms” of child labor, but also to provide for the rehabilitation of children who had been exposed to such labor.

The Convention outlines specific obligations of ratifying states with respect to prohibiting and eliminating the worst forms of child labor, “as a matter of urgency.” The Convention defines four types of “worst forms,” which includes: 1) slavery and practices similar to slavery; 2) the use of children for prostitution or pornography; 3) the use of children for illicit activities, such as drug trafficking; and 4) work that, by “its nature or circumstances in which it is carried out, is likely to harm the health, safety or morals of children.” The drafters of ILO 182 recognized that the circumstances and conditions of different economic sectors may vary by country, and therefore left room for each State to define what constitutes “hazardous conditions” for the purposes of the Convention.

ILO 182 emphasizes the responsibility of States Parties to implement effective measures to ensure compliance with the Convention. Consequently, the Convention obligates States to establish monitoring and enforcement mechanisms, educate the populous as to forms of prohibited labor, and not only create programs to eliminate prohibited labor but also to rehabilitate child laborers into society. Moreover, recognizing the detrimental effect child labor has on a child’s ability to attend school, the Convention mandates that States Parties ensure access to free primary education and, whenever possible, provide for vocational training programs for all children, particularly at-risk youth.

### **Preamble**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 87th Session on 1 June 1999, and

Considering the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the Convention and the Recommendation concerning Minimum Age for Admission to Employment, 1973, which remain fundamental instruments on child labour, and

Considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families, and



Recalling the resolution concerning the elimination of child labour adopted by the International Labour Conference at its 83rd Session in 1996, and

Recognizing that child labour is to a great extent caused by poverty and that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education, and

Recalling the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989, and

Recalling the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998, and

Recalling that some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, and

Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Convention, which may be cited as the Worst Forms of Child Labour Convention, 1999.

### **Article 1**

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

### **Article 2**

For the purposes of this Convention, the term child shall apply to all persons under the age of 18.

### **Article 3**

For the purposes of this Convention, the term the worst forms of child labour comprises:

- (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;
- (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.

#### **Article 4**

1. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.
2. The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.
3. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

#### **Article 5**

Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.

#### **Article 6**

1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

#### **Article 7**

1. Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.
2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:
  - (a) prevent the engagement of children in the worst forms of child labour;
  - (b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;
  - (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
  - (d) identify and reach out to children at special risk; and
  - (e) take account of the special situation of girls.

3. Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

### **Article 8**

Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

### **Article 9**

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

### **Article 10**

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

### **Article 11**

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

### **Article 12**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

### **Article 13**

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

### **Article 14**

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

### **Article 15**

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides --

(a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

### **Article 16**

The English and French versions of the text of this Convention are equally authoritative.

## 2.4 ILO 190 - Recommendation Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor

The International Labor Organization (“ILO”) Recommendation 190, the Recommendation Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (“ILO 190”), was adopted by the ILO on June 17, 1999 as a recommendation to The Convention on the Worst Forms of Child Labor (“ILO 182”). ILO 190 was drafted as a supplement to ILO 182 to enhance the provisions of the Convention. Therefore, while ILO 190 is intended to be applied “in conjunction” with the Convention—which is binding upon its 180 signatories—as a recommendation, it does not have binding force.

The Recommendation is primarily concerned with providing guidance regarding implementation measures with respect to prohibiting and eliminating the worst forms of child labor. As an initial matter, ILO 190 reiterates that States’ programs of action should be implemented, and offers guidance as to the aims of such programs. The Recommendation lists a host of implementation measures, including, *inter alia*, recommendations as to how data regarding child labor should be kept and used; that states should coordinate measures; that certain offenses should be criminalized (such as child slavery and prostitution); that states adopt special procedures for making complaints relating to labor abuses; and many others.

Additionally, the Recommendation provides further guidance as to how states may choose to define types of hazardous work, which is a specific sub-set of worst forms of child labor laid forth in the Convention. It urges states to consider hazardous work to include such work that exposes children to physical, psychological, or sexual abuse; work that occurs in certain dangerous geographic locations; any work with dangerous tools or machinery; work in unhealthy environments; and work under “particularly difficult conditions,” such as long hours.

### Preamble

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Eighty-seventh Session on 1 June 1999, and

Having adopted the Worst Forms of Child Labour Convention, 1999, and

Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Worst Forms of Child Labour Convention, 1999;

adopts this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Recommendation, which may be cited as the Worst Forms of Child Labour Recommendation, 1999.

1. The provisions of this Recommendation supplement those of the Worst Forms of Child Labour Convention, 1999 (hereafter referred to as "the Convention"), and should be applied in conjunction with them.

### **I. Programmes of action**

2. The programmes of action referred to in Article 6 of the Convention should be designed and implemented as a matter of urgency, in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of the children directly affected by the worst forms of child labour, their families and, as appropriate, other concerned groups committed to the aims of the Convention and this Recommendation. Such programmes should aim at, inter alia:

(a) identifying and denouncing the worst forms of child labour;

(b) preventing the engagement of children in or removing them from the worst forms of child labour, protecting them from reprisals and providing for their rehabilitation and social integration through measures which address their educational, physical and psychological needs;

(c) giving special attention to:

(i) younger children;

(ii) the girl child;

(iii) the problem of hidden work situations, in which girls are at special risk;

(iv) other groups of children with special vulnerabilities or needs;

(d) identifying, reaching out to and working with communities where children are at special risk;

(e) informing, sensitizing and mobilizing public opinion and concerned groups, including children and their families.

### **II. Hazardous work**

3. 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.

4. For the types of work referred to under Article 3(d) of the Convention and Paragraph 3 above, national laws or regulations or the competent authority could, after consultation with



the workers' and employers' organizations concerned, authorize employment or work as from the age of 16 on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.

### **III. Implementation**

5. (1) Detailed information and statistical data on the nature and extent of child labour should be compiled and kept up to date to serve as a basis for determining priorities for national action for the abolition of child labour, in particular for the prohibition and elimination of its worst forms as a matter of urgency.

(2) As far as possible, such information and statistical data should include data disaggregated by sex, age group, occupation, branch of economic activity, status in employment, school attendance and geographical location. The importance of an effective system of birth registration, including the issuing of birth certificates, should be taken into account.

(3) Relevant data concerning violations of national provisions for the prohibition and elimination of the worst forms of child labour should be compiled and kept up to date.

6. The compilation and processing of the information and data referred to in Paragraph 5 above should be carried out with due regard for the right to privacy.

7. The information compiled under Paragraph 5 above should be communicated to the International Labour Office on a regular basis.

8. Members should establish or designate appropriate national mechanisms to monitor the implementation of national provisions for the prohibition and elimination of the worst forms of child labour, after consultation with employers' and workers' organizations.

9. Members should ensure that the competent authorities which have responsibilities for implementing national provisions for the prohibition and elimination of the worst forms of child labour cooperate with each other and coordinate their activities.

10. National laws or regulations or the competent authority should determine the persons to be held responsible in the event of non-compliance with national provisions for the prohibition and elimination of the worst forms of child labour.

11. Members should, in so far as it is compatible with national law, cooperate with international efforts aimed at the prohibition and elimination of the worst forms of child labour as a matter of urgency by:

(a) gathering and exchanging information concerning criminal offences, including those involving international networks;

(b) detecting and prosecuting those involved in the sale and trafficking of children, or in the use, procuring or offering of children for illicit activities, for prostitution, for the production of pornography or for pornographic performances;

(c) registering perpetrators of such offences.

12. Members should provide that the following worst forms of child labour are criminal offences:

(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; and

(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, or for activities which involve the unlawful carrying or use of firearms or other weapons.

13. Members should ensure that penalties including, where appropriate, criminal penalties are applied for violations of the national provisions for the prohibition and elimination of any type of work referred to in Article 3(d) of the Convention.

14. Members should also provide as a matter of urgency for other criminal, civil or administrative remedies, where appropriate, to ensure the effective enforcement of national provisions for the prohibition and elimination of the worst forms of child labour, such as special supervision of enterprises which have used the worst forms of child labour, and, in cases of persistent violation, consideration of temporary or permanent revoking of permits to operate.

15. Other measures aimed at the prohibition and elimination of the worst forms of child labour might include the following:

(a) informing, sensitizing and mobilizing the general public, including national and local political leaders, parliamentarians and the judiciary;

(b) involving and training employers' and workers' organizations and civic organizations;

(c) providing appropriate training for the government officials concerned, especially inspectors and law enforcement officials, and for other relevant professionals;

(d) providing for the prosecution in their own country of the Member's nationals who commit offences under its national provisions for the prohibition and immediate elimination of the worst forms of child labour even when these offences are committed in another country;

(e) simplifying legal and administrative procedures and ensuring that they are appropriate and prompt;

(f) encouraging the development of policies by undertakings to promote the aims of the Convention;

(g) monitoring and giving publicity to best practices on the elimination of child labour;

(h) giving publicity to legal or other provisions on child labour in the different languages or

dialects;

(i) establishing special complaints procedures and making provisions to protect from discrimination and reprisals those who legitimately expose violations of the provisions of the Convention, as well as establishing helplines or points of contact and ombudspersons;

(j) adopting appropriate measures to improve the educational infrastructure and the training of teachers to meet the needs of boys and girls;

(k) as far as possible, taking into account in national programmes of action:

(i) the need for job creation and vocational training for the parents and adults in the families of children working in the conditions covered by the Convention; and

(ii) the need for sensitizing parents to the problem of children working in such conditions.

16. Enhanced international cooperation and/or assistance among Members for the prohibition and effective elimination of the worst forms of child labour should complement national efforts and may, as appropriate, be developed and implemented in consultation with employers' and workers' organizations. Such international cooperation and/or assistance should include:

(a) mobilizing resources for national or international programmes;

(b) mutual legal assistance;

(c) technical assistance including the exchange of information;

(d) support for social and economic development, poverty eradication programmes and universal education.

## 2.5 United Nations Convention on the Rights of the Child

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The Convention on the Rights of the Child (“CRC”) was adopted by the United Nations General Assembly on November 20, 1989, and entered into force less than one year later, on September 2, 1990.

More countries have ratified the CRC than any other international convention, with the Convention having 196 States Parties total. In adopting and ratifying the CRC, the General Assembly recognized international human rights law’s tradition of affording special protection and care for children, as evidenced by certain provisions of, for example, the Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights and as laid forth in the Declaration of the Rights of the Child. The Convention, therefore, was ratified in order to safeguard and preserve rights specific to children, recognizing that such special protections are necessary “by reason of [their] physical and mental immaturity.” As such, the CRC requires States to adopt a broad array of protections for children, ranging from civil and political rights (such as the right to life, freedom of expression, and access to information) to social and economic rights (such as access to education, healthcare, and an adequate standard of living) to rights relating to family relations and adoption.

Additionally, in early 2002, two optional protocols to the CRC entered into force—the Optional Protocol on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (entered into force on January 18, 2002) and the Optional Protocol on Right of the Child on the Involvement of Children in Armed Conflict (entered in force on February 12, 2002). These optional protocols have been ratified by 171 and 161 parties, respectively. As the names suggest, these protocols add valuable responsibilities for States to address the problems of child trafficking, prostitution, pornography, and the use of children in armed conflict, with a specific eye towards providing for protections for children in these areas.

Together with the optional protocols, the Convention requires States to adopt laws and policies protecting the rights of the child as they relate to child labor. Such protections are often intertwined with children’s other rights, such as the rights to education, health, and adequate standard of living, as the protection—and violation—of certain rights necessarily affects others. Some examples of child labor-related requirements enshrined in the CRC include: that States provide a minimum age for entry into the workforce; that States limit children’s involvement in the military and armed conflict; that States criminalize all aspects of child prostitution and pornography; and that States provide free primary education to all children.

### **Preamble**

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their

faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding, Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”,

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

## **PART I**

### **Article 1**

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

### **Article 2**

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

### **Article 3**

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

### **Article 4**

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

### **Article 5**

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.



**Article 6**

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

**Article 7**

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

**Article 8**

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

**Article 9**

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

## **Article 10**

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

## **Article 11**

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

## **Article 12**

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

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

## **Article 13**

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

**Article 14**

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

**Article 15**

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

**Article 16**

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

**Article 17**

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

## **Article 18**

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

## **Article 19**

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

## **Article 20**

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

## **Article 21**

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be

necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

## **Article 22**

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

## **Article 23**

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health

care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

## **Article 24**

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

## **Article 25**

States Parties recognize the right of a child who has been placed by the competent authorities



for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

### **Article 26**

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.
2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

### **Article 27**

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

### **Article 28**

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
  - (a) Make primary education compulsory and available free to all;
  - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
  - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
  - (d) Make educational and vocational information and guidance available and accessible to all

children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

## **Article 29**

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

## **Article 30**

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

## **Article 31**

1. States Parties recognize the right of the child to rest and leisure, to engage in play and

recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

### **Article 32**

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

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

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

### **Article 33**

States Parties shall take all appropriate measures, including legislative, administrative, social and educational 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. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

### **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.

## **Article 37**

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

## **Article 38**

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

## **Article 39**

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

## **Article 40**

1. States Parties recognize the right of every child alleged as, accused of, or recognized as

having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

#### **Article 41**

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State party; or
- (b) International law in force for that State.

### **PART II**

#### **Article 42**

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

#### **Article 43**

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of eighteen experts of high moral standing and recognized competence in the field covered by this Convention.<sup>1/</sup> The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible



for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

#### **Article 44**

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

#### **Article 45**

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

### **PART III**

#### **Article 46**

The present Convention shall be open for signature by all States.

#### **Article 47**

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### **Article 48**

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### **Article 49**

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth

instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

#### **Article 50**

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

#### **Article 51**

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

#### **Article 52**

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

#### **Article 53**

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

#### **Article 54**

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

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