

**A Review of Child Labour Laws
of Barbados - a Guide to Legislative Reform**

Clive Pegus

June 2005

**ILO Regional Child Labour Project
International Labour Organization
Subregional Office for the Caribbean**

Copyright © International Labour Organization 2006

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to the Publications Bureau (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered in the United Kingdom with the Copyright Licensing Agency, 90 Tottenham Court Road, London W1T 4LP [Fax: (+44) (0)20 7631 5500; email: cla@cla.co.uk], in the United States with the Copyright Clearance Center, 222 Rosewood Drive, Danvers, MA 01923 [Fax: (+1) (978) 750 4470; email: info@copyright.com] or in other countries with associated Reproduction Rights Organizations, may make photocopies in accordance with the licences issued to them for this purpose.

Pegus, C

A Review of Child Labour Laws of Barbados – a Guide to Legislative Reform
Port of Spain, International Labour Office, 2006

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

TABLE OF CONTENTS

Executive Summary	1
1. Introduction	5
1.1 Terms of Reference	5
1.2 Methodology	5
1.3 Structure	7
1.4 Issues	7
2. ILO Conventions Framework	8
2.1 Background	8
2.2 Definition of Child Labour	8
2.3 ILO Convention No. 138	9
2.3.1 Primary Objectives	9
2.3.2 Child Labour Policy	9
2.3.3 Minimum Age for Employment	10
2.3.4 Exception for Light Work	10
2.3.5 Exception for Artistic Performances	11
2.3.6 Hazardous Work	11
2.3.7 Exclusions	12
2.4 ILO Convention No. 182	13
2.5 Enforcement	14
2.6 Legal Status of Convention	14
3. Socio-economic Background of Child Labour	15
4. Review of the Policy, Legal and Institutional Framework of Child Labour	17
4.1 Policy	17
4.2 Legal Framework	21
4.2.1 Minimum Age for Employment	21
4.2.2 Light Work	22
4.2.3 Artistic Performances	23
4.2.4 Hazardous Work	24
4.2.5 Exclusions	27
4.3 Unconditional Worst Forms of Child Labour	28
4.3.1 All forms of slavery or practices similar to slavery	28
4.3.2 Sale and Trafficking of Children	29
4.3.3 Debt bondage, serfdom, forced and compulsory labour	29
4.3.4 Compulsory recruitment of children in armed conflict	30
4.3.5 Use, procuring or offering a child for prostitution, pornography or pornographic performances	30

4.3.6	Use, procuring or offering a child for illicit activities, production and trafficking of drugs	31
4.4	Enforcement	32
4.5	Investigation and Inspection	37
4.6	Institutional Framework	39
5.	Conclusions and Recommendations	41
	References	45
	Appendix I - Summary of Good Practices in Countries Studied	47
	Appendix II - Questionnaire on Child Labour	53

Executive Summary

Status of Convention

Barbados has ratified both ILO Conventions No. 138 on the Minimum Age for Admission to Employment and No. 182 on the Worst Forms of Child Labour. An obligation of ratification is that the Government of Barbados must ensure that its laws comply fully with the requirements of the Convention and that all measures are in place for the implementation of the Convention.

Policy

An important requirement of ILO Convention No. 138 is for members to develop a policy for the elimination and prevention of child labour. Unfortunately, Barbados has not yet developed a comprehensive policy framework to address the elimination of child labour. Fortunately, Barbados has sound national policies in areas connected with child labour, such as education, childcare protection, welfare, social security, labour administration and other social development, but there is no explicit policy reference to child labour. In addition, the Government and social partners in their Social Protocol V have resolved to redouble their efforts to combat child labour and the worst forms of child labour and to assist in efforts to reintegrate such exploited children into the mainstream of our society. There is also in place a policy that prohibits the importation of any item for sale in Barbados, where there is reasonable ground for belief that child labour has formed any part of the process of manufacture or production.

The Ministry of Labour and Social Security has initiated action to remedy the policy deficiency and has recently established an Inter-Ministerial Committee on child labour whose task is to make recommendations for a policy on child labour. The Government may wish to consider whether the procedure for the establishment and the composition of this Committee should take cognizance of the fact that child labour transcends the policy limits of the Ministry of Labour and Social Security. It involves not only the Ministry of Labour and Social Security but also the Ministries with responsibilities for Education, Health, Social Services, Human Development, Family Services, Justice and Police, Attorney General, Youth Affairs, Immigration, Agriculture, Tourism and Statistics. It also involves the trade union movement, employers' organizations and non-governmental organizations. A policy on child labour must be placed in the context of national, social and economic development policies that address the larger issues of poverty, education, family life and youth development.

It is also important that the national policy on child labour be formulated in a coherent and coordinated manner. This will ensure that all aspects of child labour, including legislation, education, labour market policies, social security, health, welfare and social development are properly addressed and coordinated. In this connection, child labour policy must provide the framework within which all institutions approach their individual

and collective tasks of seeking to abolish child labour. It should also facilitate an integrated and coordinated approach by all agencies in the implementation of their work programmes. Each agency will identify the connection of their work with the work of other agencies. Moreover, a policy framework will also serve to guide the administration of the laws on child labour.

Barbados may also wish to consider whether the Committee considering the formulation of policies on child labour should be a sub-Committee of a National Committee on Children. Thus, the policies would be considered within a broader policy, administrative and institutional context that seeks to connect all programmes and institutions promoting the protection of the rights of the child. This would facilitate an integrated and coordinated approach by all agencies in the implementation of their work programmes.

Legal Framework

Minimum Age for Employment

Barbados, after consultation with the social partners, has determined a minimum age for admission to employment or work at age 16, which is the compulsory age for the completion of schooling in Barbados. Barbados is to be commended for using the optimal age and not availing itself of the special dispensation of a lower minimum age offered to developing countries.

However, it should be noted that Barbados' minimum age is too limited and does not fully meet the objective of the ILO Convention No. 138. *It is restricted to employment in industrial undertakings and ships*, which accounts for about 20% of employed labour.

It is recommended that, to fully comply with ILO Convention No. 138, the Employment (Miscellaneous Provisions) Act needs to be amended to provide that as a general principle, the minimum age for admission to employment in all undertakings should be 16 years of age.

Light Work

The Government of Barbados did not make any declaration on ratification of Convention No.138 regarding any exception from the minimum age for light work. However, its laws permit work from age 14 for all areas of the economy except the industrial sector and on ships. This exception to the minimum age for employment is not characterized as light work. It is recommended that the Employment (Miscellaneous Provisions) Act be amended to make provision for a limited duration for children to be engaged in light work in certain restricted undertakings to be determined by the competent authority after consultations with the representative organizations of employers and workers.

In addition, Barbados may also consider the adoption of a legal provision, similar to the Bahamas, on the prohibition of employment during school hours. The Barbados law

limits the prohibition of employment to children and young persons of compulsory school age during school hours. Therefore school children beyond the compulsory school age are not legally prohibited from working during school hours. The Bahamas law is applicable to all children and young person attending school regardless of whether they are of compulsory school age.

Artistic Performances

There is no legislative provision or policy in Barbados to give effect to the requirements of ILO Convention No. 138 regarding the engagement of children in artistic performances. Barbados may wish to consider an amendment to the Employment (Miscellaneous Provisions) Amendment Act to allow for the person seeking to engage the services of the child performer to obtain a permit from the Chief Labour Officer, who shall be required to consult with the BEC and CTUSAB, and impose such conditions to ensure that the welfare of the child is guaranteed similar to what obtains in the Bahamas.

Hazardous Work

Barbados' laws, which seek to protect young persons from hazardous work, are limited to industrial undertakings and ships. Moreover its determination of activities deemed to be hazardous work is limited to certain processes in factories.

It is submitted that this categorization of hazardous work is too limited and inadequate for the requirements of the ILO Conventions. The competent authority in consultation with the BEC and CTUSAB must determine all types of employment or work that is considered to be hazardous for young persons bearing in mind the Recommendation 190. There is need for a more comprehensive framework for health and safety of young persons throughout the economy, which should cover all sectors of the economy.

In addition, the laws provide a broad coverage of sanctions. However, having regard to the fact that the quantum of fines was determined over two decades ago, the Government of Barbados may wish to review the fines to bring them in line with the deterrent principle mentioned in the ILO Conventions.

Unconditional Worst Forms of Child Labour

There are laws in Barbados which outlaw most activities involved in the worst forms of child labour. However, these laws are not characterized as child labour but as criminal offences and there are some deficiencies and gap. There is no specific offence of child trafficking, and the upper age limit for some offences under the Offences against the Persons Act and the Sexual Offences Act is below the age of 18 years. It is recommended that Barbados enact a legal framework specifically for the purpose of addressing the unconditional worst forms of child labour.

Institutional Arrangements

The Government of Barbados in its last report to the ILO on measures taken to implement ILO Conventions No. 138 and No. 182 have indicated that there were no known forms of child labour. This contrasts with the ILO Rapid Assessment Survey, which reported evidence of child labour. This points to the need to strengthen the monitoring of child labour in Barbados.

It is also recommended that consideration be given to amending the Labour Department Act to provide for a legal duty on the part of the Chief Labour Officer to have systemic reviews of the child labour situation in Barbados.

There is also the need for a Central Database on Child Labour. The laws relating to Juvenile Offenders and the Labour Department will have to be amended to provide for the disclosure and use of information on child labour to the central Database.

1. Introduction

1.1 Terms of Reference

This study, commissioned by the International Labour Organization, Subregional Office for the Caribbean, reviews the laws on child labour in Barbados, within the context of ILO Conventions No. 138 on the Minimum Age for Admission to Employment and No. 182 on the Worst Forms of Child Labour and its relevant ILO Recommendations No. 146 and No.190. It is part of a wider project, which reviews child labour laws of six Caribbean countries, namely Bahamas, Barbados, Belize, Guyana, Suriname and Trinidad and Tobago.

The main concern of this review is to identify *apparent gaps and inconsistencies* in the laws relating to child labour in Barbados and to provide a *guide for legislative reform to ensure compliance* with the requirements of the ILO Conventions.

The primary practical purpose of the review is to propose *recommendations for an effective legal framework for the elimination and prevention of child labour in Barbados*. This involves not only consideration of the substantive laws but also certain ancillary non-legal elements contained in the Convention. These include the policy framework on child labour as well as the administrative and institutional arrangements for the monitoring and enforcement of the laws that seek to eliminate and prevent child labour.

1.2 Methodology

This review used as its frame of reference the ILO Conventions and Recommendations on child labour. The author reviewed relevant handbooks, manuals and reports produced by, or under the auspices of the ILO, in order to determine whether laws of Barbados on child labour were framed and administered in accordance with the expectations associated with the Conventions.

In this regard, the study benefited from Reports by the Government of Barbados under Article 22 of the Constitution of the International Labour Organization and the comments of the Committee of Experts on the Application of the ILO Conventions. It also benefited significantly from the report by Leith Dunn on *The Situation of Children in the Worst Forms of Child Labour in a tourist economy: A Rapid Assessment*, which was undertaken for the Child Labour Project of the ILO Subregional Office for the Caribbean in 2002.

The review took note of the policy, institutional and socio-economic context within which the issues of child labour are addressed in Barbados. This was important in order to ensure that relevant country-specific background was taken into consideration in the review of the laws.

This study also benefited from the information and insights provided by officials of the Government of Barbados and stakeholders in interviews on issues relating to the law, policy, programmes, monitoring and enforcement of measures to eliminate and prevent child labour. In this regard, discussions were held with officials from:

- Ministry of Labour and Social Security;
- Ministry of Education;
- Probation Department;
- Child Care Board;
- Barbados Employers' Confederation (BEC);
- Confederation of Trade Unions and Staff Associations of Barbados.

In addition, discussions were held with an expert on child labour law at the Faculty of Law of the University of the West Indies. These interviews provided the author with a broad perspective on the functioning and enforcement of the current laws and their socio-economic context. The author noted the general uniformity of views by officials on matters relating to child labour in Barbados. This contrasts markedly with the author's experience in some other Caribbean countries.

The attached questionnaire served as the basis for discussion on child labour issues relating to policy, legislation, programmes, administration and enforcement.

The laws reviewed were:

- The Constitution of Barbados;
- Employment (Miscellaneous Provisions) Act;
- Employment (Miscellaneous Provisions) (Amendment) Act of 2001;
- The Recruiting of Workers Act;
- Occupational Training Act;
- Factories Act;
- Education Act;
- Offences Against the Persons Act;
- The Sexual Offences Act;
- The Protection of Children Act;
- Juvenile Offenders Act;
- The Defence Act;
- The National Council on Substance Abuse Act;
- Drug Abuse (Prevention and Control) Act;
- Liquor Licences Act;
- Child Care Protection Act;
- The Labour Department Act.

The conclusions identified some good practices in Barbados, which could be relevant and useful for other Caribbean countries. Similarly, the recommendations took into consideration some good practices identified in the review of child labour laws of the other Caribbean countries, which were included in this project.

1.3 Structure

The study commences with a description of the requirements of the ILO Conventions on Child Labour and an outline of the socio-economic context within which the problem of child labour is addressed. It then proceeds with the actual review of the laws of Belize that seek to comply with the various obligations of the Conventions.

In terms of organization, the core obligations of ILO Convention No. 138 are discussed before those relating to ILO Convention No. 182. For convenience, the issue of hazardous work, common to both Conventions, is discussed within the context of ILO Convention No. 138. Other issues that are common to both Conventions such as enforcement, investigation and inspection, prevention, and institutional arrangements are discussed after the substantive issues are addressed.

The study is organized into the following broad sections:

- (i) the Convention Framework;
- (ii) the Socio-economic Background;
- (iii) Review of the Legal, Policy and Institutional Framework
 - (a) policy;
 - (b) minimum age;
 - (c) hazardous work;
 - (d) unconditional worst forms;
 - (e) enforcement;
 - (f) investigation and inspection;
 - (g) prevention;
 - (h) institutional arrangements;
- (iv) Conclusions and recommendations.

1.4 Issues

Some central issues considered were:

- (i) Should the development of a comprehensive policy framework for the elimination of child labour be a pre-condition for law reform and if so, what should be the major elements of such a policy?
- (ii) Should law reform, if required, be limited to amendments of existing laws or a consolidation of the laws, or should it embrace a new comprehensive law dealing specifically with child labour?
- (iii) Could law reform be effective without the mainstreaming of child labour issues within all relevant institutions and without a reorientation of the society's cultural norms and institutional strengthening?
- (iv) What institutional arrangements are required to support the monitoring and enforcement of child labour laws?

2. ILO Conventions Framework

2.1 Background

This Chapter briefly describes the requirements of ILO Conventions No. 138 and No. 182 and their related Recommendations, and examines their legal implications for Barbados.

The ILO Conventions No. 138 and No.182 seek to protect children from work that is detrimental to their mental, physical, social, moral, and educational development. ILO Convention No. 138 was adopted in 1973, 26 years earlier than the adoption of ILO Convention No. 182. It requires member States to establish a *general minimum age* for admission to employment or work. It replaces and consolidates a number of Conventions dating from 1919 on the minimum age for admission to employment in various sectors and workplaces. In the words of its Preamble, “*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*”.

ILO Convention No. 182 seeks to complement and enhance ILO Convention No. 138 by addressing the need for the *immediate prohibition and elimination of the worst forms of child labour as a priority* for national and international action. Unlike ILO Convention No. 138, it addresses concerns that are wider than labour market issues; and includes all economic activities of children whether traditionally classified within the labour market context or not. It also has both a national and international focus in its scope and implementation. Thus, it includes activities such as trafficking in children and commercial sex activities.

2.2 Definition of Child Labour

It is important to stress that these Conventions do not prohibit all forms of work by children. Indeed, the social and moral development of children requires that the value of work be instilled at a reasonable age. Such work must however be compatible with the welfare of the child and a distinction must be made between legitimate child work and prohibited child labour.

Child labour is work carried out to the manifest detriment and endangerment of the child, in violation of the rights of the child, international law as defined in the ILO Conventions and national law of the particular country, in this case, Barbados. The ILO Publication entitled “*Action Against Child Labour*” describes it as “*both paid and unpaid work and activities that are mentally, physically, socially or morally dangerous and harmful to children. It is work that deprives them of opportunities for schooling or that requires them to assume the multiple burdens of schooling and work at home and in other workplaces; and work that enslaves them and separates them from their family.*”

The author has found in the course of this study that the distinction between legitimate child work and child labour was not always clearly understood by all officials and stakeholders in the Caribbean region. Officials in more than one country had expressed the view that the Caribbean did not have genuine child labour and that the Rapid Assessments, conducted by the ILO, had misconstrued legitimate cultural or social practices as child labour. Some argued that child work was necessary to ensure that families acquire the financial means to ensure the education of the children. Another misconception was that child labour only involved paid economic or commercial activities; that unpaid work did not constitute child labour.

Generally, those officials who attended seminars on child labour organized by the ILO Subregional Office for the Caribbean had a good understanding of the meaning of the term child labour and the requirements of the Convention. In contrast, those Officials who did not benefit from such orientation and training did not demonstrate an accurate understanding of the term child labour, even though their work may be connected with some aspect of the rights of children. *The lack of a proper understanding by officials about the Convention creates special difficulties for their monitoring and implementation of the provisions of the Convention.*

2.3 ILO Convention No. 138

2.3.1 Primary Objectives

The primary objectives of ILO Convention No. 138 are to ensure that member States:

- pursue a national policy designed to ensure the effective abolition of child labour;
- establish by law a minimum age for admission to employment and work within its territory and on means of transport registered in its territory;
- prohibit the employment of young persons under 18 years of age in work or activities that is likely to jeopardize their safety, health or moral development.

2.3.2 Child Labour Policy

Guidelines regarding the policy on child labour are contained in ILO Recommendation No. 146. These guidelines call for high priority to 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.

Elimination of the causes of child labour is a major policy concern. In this regard, special attention and effective measures are required in the areas of employment policy, poverty alleviation, social security, child welfare, and education.

2.3.3 Minimum Age for Employment

ILO Convention No. 138 provides that member States must determine a general minimum age for admission to employment. While the Convention permits certain exceptions, its general objective is that the minimum age should be applicable to all sectors of the economy. This age should not be lower than the compulsory age for the completion of basic education and in any case not less than 15 years. The general minimum age is to be determined at the time of ratification of the Convention.

The Convention also enjoins member States 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. ILO Recommendation No. 146 provides that the minimum age should be fixed at the same level for all sectors of economic activity and the objective should be to raise it progressively to 16 years.

The Convention provides some flexibility for countries whose economy and educational facilities are insufficiently developed to specify, after appropriate consultations with the social partners, a minimum age of 14 years.

2.3.4 Exception for Light Work

Article 7 of ILO Convention No. 138 allows a younger minimum age for light work. Light work may be undertaken by children two years younger than the declared minimum age for admission to general employment.

Light work is considered to be work which is *“not likely to be harmful to the health or development of young persons and 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.”* However, the light work has to be properly regulated. The activities, number of hours and other conditions in which such work may be permitted must be determined by the competent authority, after consultation with the social partners.

ILO Recommendation No. 146 elaborates on the conditions in which light work may be permitted. It states that 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), 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.

2.3.5 Exception for Artistic Performances

There is also an exception for artistic performances by children under the minimum age for admission to employment. Exceptions from the minimum age can be granted:

- after consultation with the social partners;
- by permits from the competent authority in individual cases which must limit the number of hours that can be worked and specify the conditions.

2.3.6 Hazardous Work

Both ILO Conventions No. 138 and No. 182 proscribe hazardous work for young persons under the age of 18 years. Hazardous work is defined as “*any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize their health, safety or moral development.*” ILO Convention No. 182 characterizes hazardous work as a worst form of child labour.

Both Conventions provide a standard procedure by which hazardous work may be determined, that is, by national laws or by the competent authority, after consultation with the organizations of employers and workers concerned. ILO Convention No. 182 stipulates further that relevant international standards should be taken into consideration. It also calls for the list of hazardous work to be periodically examined and revised.

ILO Recommendation No. 190 provides some guidelines in determining hazardous work. It specifies that consideration should be given 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.

ILO Convention No. 138 and Recommendation No.190 exceptionally allow young persons over 16 years of age to undertake hazardous work in certain restricted conditions under specified protective mechanisms. Article 3 (3) provides that national laws or regulations or the competent authority may, after consultation with the organizations of employers and workers concerned, authorize employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

ILO Convention No. 138 also provides for employers to maintain a register of employees under the age of 18 with information on their date of birth and date of appointment and date of termination of appointment. This register should be open to inspection by the competent authority.

2.3.7 Exclusions

ILO Convention No. 138 provides several flexibility provisions. Apart from the exception for light work and artistic performances, it permits, after consultation with the social partners, *the exclusion of limited categories of work for which special and substantial problems may arise*. However, work that is likely to jeopardize the health, safety or morals of young persons may not be excluded. Moreover, States must review excluded categories on an ongoing basis and make progress towards eliminating the special and substantial problems, which make broad application difficult.

This flexibility provision applies to developing countries. Article 5 provides that a country whose economy and administrative facilities are insufficiently developed may initially limit the scope of application of the Convention to certain branches of economic activity or types of enterprises. The following sectors, however, are excluded from exemption:

- mining and quarrying;
- manufacturing;
- construction;
- electricity, gas and water;
- sanitary services;
- transport, storage and communication;
- plantations and other agricultural undertakings mainly producing for commercial purposes.

Countries limiting application initially are still to report on child work in excluded categories and on their progress towards achieving broader coverage of the requirements of the Convention. This Article could only be invoked at the time of ratification.

The Convention in Article 6 also excludes work done by children and young persons in schools for *general, vocational or technical education or in other training institutions, or work done by persons at least 14 years of age* in undertakings, where such work is

carried out in accordance with conditions prescribed by the competent authority, after consultation with the organizations of employers and workers concerned, where such exist, and is an integral part of:

- (a) a course of education or training for which a school or training institution is primarily responsible;
- (b) a programme of training mainly or entirely in an undertaking; or
- (c) a programme of guidance or orientation designed to facilitate the choice of an occupation or a line of training.

2.4 ILO Convention No. 182

This Convention targets the worst forms of child labour. In addition to provisions on hazardous work similar to ILO Convention No.138 already mentioned, ILO Convention No.182 addresses certain *unconditional worst forms of child labour*, which comprise:

- (i) slavery and all practices similar to slavery including forced labour, serfdom and bonded labour, the involvement of children in wars and armed conflict;
- (ii) prostitution and pornographic performances and other forms of commercial sexual activity; and
- (iii) illicit activities such as the production and distribution of illegal drugs.

Member States are required to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. It also specifies the kinds of measures that member States must take in the implementation of the Convention. In designing these measures, States are required to take into account *the importance of education in eliminating child labour* and 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.

Because of the potential cross-border character of the unconditional worst forms of child labour, ILO Convention No. 182, unlike ILO Convention No. 138, specifically calls for international cooperation in eradicating the causes of the worst forms of child labour and in the implementation of the Convention.

2.5 Enforcement

Both Conventions require member States to take all measures necessary for the effective enforcement of the provisions of the Convention. This involves the provision of

appropriate penalties. In addition, the national laws or regulations or the competent authority must:

- (i) define the persons responsible for compliance with the enabling laws; and
- (ii) prescribe the registers or other documents which have to be kept and made available by the employer.

2.6 Legal Status of Convention

Having ratified ILO Conventions No. 138 and No. 182, Barbados has an obligation under international law and under the Constitution of the ILO to ensure that its laws comply fully with these Conventions.

A fundamental principle of international law enshrined in Article 26 of the Vienna Convention on the Law of Treaties, ratified by the Government of Barbados, is that *every treaty in force is binding upon the parties to it and must be performed by them in good faith*. Article 27 prevents a party from invoking its internal law as justification for its failure to perform a treaty.

This principle is also enshrined in the Constitution of the International Labour Organization. Article 5 imposes an undertaking on each member State to bring, within one year from ratification of an ILO Convention, the Convention before the authorities within whose competence the matter lies for the enactment of legislation or other action.

Within the jurisprudence of Barbados, unlike Suriname, ratified treaties are not considered to be directly applicable without enabling legislation. Therefore where there is an inconsistency between national law and the provision of an ILO Convention, which Barbados has ratified, *the Government of Barbados has one year from ratification to enact enabling or amending legislation to ensure compliance with the ILO Convention*.

It should be noted here that, while ILO Conventions are considered to be binding in international law on States, which have ratified them, ILO Recommendations are of persuasive authority only. They are however considered to be soft law, which should serve as guides to the implementation of the Conventions and should be generally observed.

3 Socio-economic Background of Child Labour

Barbados is classified by the United Nations Development Programme as a high human development country. It is well placed in the UNDP Human Development Index (29th in the 2004 Index), which measures achievements in terms of life expectancy, educational attainment and adjusted real income. It has the second highest per capita income in the English-speaking Caribbean estimated at US\$9,682 in 2002. Unemployment is marginally below 10% and poverty is estimated at 13.9% of the population. A reported 2.4% of the population relies on public assistance.

The education, health and poverty indicators are good. School enrolment rates are high (97.4% for primary schools and 85.7% for secondary schools). The teacher pupil ratios are also favourable by Caribbean standards (1:9 for primary schools and 1:17 for secondary schools).

Barbados has a comprehensive health care system with programmes for health promotion, primary, secondary, tertiary and emergency care, mental health, geriatric care and rehabilitation services. In addition, there are several social welfare programmes under the auspices of Ministries of Education, Health, Community development and Social Transformation, the Welfare Department and National Insurance Scheme. There is a government employment programme, which targets unemployed women who head households.

There is a Child Care Board whose mandate is to provide for the care and protection of children. Their services include counseling, residential placement and foster care. Juvenile delinquency is not a major problem in Barbados. The Probation Department has recorded 46 offences committed by juveniles (children under 16 years) in the year 2002 of which wandering was the most frequent offence committed.

By Caribbean standards, Barbados has a fairly homogenous society with a buoyant economy. It has experienced stable social economic and political transition and development from colonialism to independence. It has not had to address or manage the fractious issues of race or class or poverty or illegal migration or border problems to the extent that has affected some other Caribbean countries. Not surprisingly, it has had a venerable tradition of democratic government and a good record of social partnership. Unlike other Caribbean countries, the Government, the employers' confederation and the trade union confederation have negotiated Five Protocols, dating from 1993, which established an agreed framework to address the fundamental economic and social issues affecting society. It has embraced a consensual approach to the formulation of labour policies.

Its small size (116 square miles) and small population, 267,000, its governance structure and economic resources make the management of social and labour issues such as child labour relatively uncomplicated. Not surprisingly, Barbados in ratifying ILO Convention

No. 138 did not avail itself of the flexibility offered to developing countries whose economy and educational facilities are insufficiently developed.

Indeed, the Dunn Report found that Barbados' policy framework and systems in the areas of education, health, welfare and social services were well developed and that there were institutional mechanisms for childcare and protection which reduce the likelihood of a child labour problem.

However, the study did find children involved in a variety of activities that were suggestive of child labour and the worst forms of child labour. Most cases were found in low-income communities and occurred in the informal sector. A total of 47 cases involving probable child labour in vending, family businesses, services and trades were reported. In addition, 45 cases of probable worst forms of child labour activities were identified mainly in prostitution and other illegal activities.

*Dunn attributed the causes of child labour in Barbados to poverty and children wanting to contribute to their family's income; poor morals and values; inadequate public awareness of children's rights; poor parenting; the absence of parents or caregivers; and family crises including incest and domestic violence. **It is therefore important that strategies for the prevention of child labour should focus not only on expanding employment opportunities, poverty alleviation, social security, education and welfare of children, but also on family life issues and moral and spiritual values.***

4. A Review of the Policy, Legal and Institutional Framework on Child Labour

Barbados was not a founding member State of either ILO Convention No. 138 or No. 182. While it ratified ILO Convention No. 182 within one year of its adoption, it took a period of twenty-six years before it ratified ILO Convention No. 138 in 1999. In accordance with the ILO Constitution, the Government of Barbados is obliged to take measures to ensure that its laws comply with the requirements of these Conventions.

4.1 Policy

As indicated in the previous Chapter, ILO Convention No. 136 attaches fundamental importance to the need for a national policy on child labour. The *first Article* of the Convention imposes an obligation upon member States to pursue a national policy designed to ensure the effective abolition of child labour.

While ILO Recommendation No. 146 specifies the scope of such policy, it is submitted that the subsequent adoption of ILO Convention No. 182 requires further policy elaboration to incorporate that Convention's specific concerns. It is also important that while the policy must reflect the requirements of the Conventions on child labour, it must also be country specific and take into consideration the socio-economic situation of Barbados. Moreover, it must be conceptualized as a part of a broader policy framework for the protection and development of the rights of children, regardless of whether they are labour connected.

From a legal perspective, a *policy should determine the scope and administration of the law on child labour. Law should be consistent with policy but the ambit of policy is wider than laws.* Laws may indicate what conduct should be proscribed, the penalties for violations, the competence and powers of institutions and prescribed persons, and the procedures for enforcement. *Policy addresses legal as well as broader issues of strategies, action plans, institutions and resources. Ideally, policy should precede legislation.*

Unfortunately, Barbados has not yet developed a comprehensive policy framework to address the elimination of child labour. When questioned about the existence of a national policy on child labour, informants readily admitted that such policy did not exist; that it was in the process of development. One reason for the absence of a comprehensive policy on child labour in Barbados may be attributed to the historical perception on the part of officials and social partners that child labour did not exist in Barbados. Indeed, in its report to the ILO on ILO Convention No. 138 for the period ending 2002, the Government of Barbados indicated that, “*there are no known forms of child labour.*”

It should be noted, however, that Barbados has sound national policies in areas connected with child labour, such as education, childcare protection, welfare, social security, labour administration and other social development, but there is no explicit policy reference to child labour. In addition, the Government and Social Partners in their Social Protocol V, signed in 2005, have resolved to redouble their efforts to combat the child labour and the worst forms of child labour and to assist in efforts to reintegrate such exploited children into the mainstream of our society. There is also in place a policy that prohibits the importation of any item for sale in Barbados, where there is reasonable ground for belief that child labour has formed any part of the process of manufacture or production.

When the ILO Rapid Assessment Survey on Child Labour in Barbados (2002) revealed instances of probable child labour, there was not surprisingly some initial skepticism by Government officials about the validity of the findings.

It is argued that the apparent lack of knowledge of the existence of child labour on the part of the competent authority, the Labour Department, is attributed to that fact that:

- (ii) child labour tends to be limited to the informal sector which is generally not adequately inspected by the Labour Department; and
- (iii) the unconditional worst forms of child labour constitute criminal offences that have not been characterized in law as child labour. They have always been perceived as criminal acts and not child labour. Law enforcement officers as well as Labour Officers do not readily see the connection between these offences and child labour. Moreover, they are not monitored by the Labour Department.

It is significant to note that the Ministry of Labour and Social Security has initiated action to remedy the policy deficiency and has recently established a *National Committee on Child Labour* whose task is *to make recommendations for a policy on child labour*. This Committee has as its members the following agencies:

- Ministry of Labour and Social Security;
- Ministry of Education;
- Ministry of Social Transformation;
- Child Care Board;
- Ministry of Finance (Statistics)
- CTUSAB;
- BEC.

It should be noted that this Committee is not a Cabinet-appointed Committee; the Committee was appointed by the Minister of Labour. The procedure for the establishment and the composition of committees on child labour should recognize that the issue of child labour is a matter that transcends the policy limits of the Ministry of Labour. A policy on child labour must be placed in the context of national, social and economic development policies that address the larger issues of poverty, education, family life and youth development. *It is therefore highly recommended that all Committees on Child Labour should be appointed or approved by the Cabinet, in*

recognition of the national significance of their remit and ensuring that all Ministers are seized of the relevance and importance of the policy implications to their Ministries.

In the Belizean model, the national policy is being formulated in a coherent and coordinated manner. This will ensure that all aspects of child labour, including legislation, education, labour market policies, social security, health, welfare and social development are properly addressed and coordinated.

It is important that child labour policy must provide the framework within which all institutions approach their individual and collective tasks of seeking to abolish child labour. It should also facilitate an integrated and coordinated approach by all agencies in the implementation of their work programmes. Each agency will identify the connection of their work with the work of other agencies. Moreover, a policy framework will also serve to guide the administration of the laws on child labour.

It is submitted that a national policy on child labour should be specific to the socio-economic conditions of Barbados and contain the following elements:

- a definition of national objectives regarding child labour;
- a connection between these policy objectives and overall policies on families and children and national development policy;
- the national social, economic and legal background;
- a description of the nature, extent of and context, including causes, of the problem;
- information gathering and information sharing;
- identification of priority target groups;
- assessing hazardous work;
- resource capacity required;
- description of the main programme areas and types of interventions, including strategies required for the prevention, removal and reintegration of children engaged in child labour activities with indicator, goals and budgetary allocations;
- identification of short-term, medium-term and long-term action plans;
- designation of the institutional actors, their roles and functions;
- role of tripartite consultations and social dialogue;
- role of broader community consultation;
- legal framework to eliminate child labour and provide redress for child victims;
- the administrative framework for ensuring the effective and coordinated implementation;
- education and advocacy;
- training of child labour inspectors
- enforcement principles;
- effective review and monitoring mechanisms;
- regional and international cooperation.

The following steps are recommended in adopting a national policy:

- (i) collection of reliable data and information through surveys and other methods of assessing the child labour problem;
- (ii) a forum for government, employers' and workers' organizations and NGOs to reflect on the strengths and weaknesses of existing policies and programmes;
- (iii) identification of priority target groups in the programmes of action;
- (iv) identification of main programme areas and types of interventions in the programmes of action;
- (v) adoption of the national policy and programme of action geared towards the elimination of the worst forms of child labour.

Barbados is now in the process of data collection to assist policy consideration. It is recommended that the Committee be given all the support required to complete its draft policy on child labour as efficiently as possible.

In terms of programmes, the role of education is universally recognized as an important solution to the elimination of child labour. However, improvements in the education system are not enough because, as the Dunn's Report indicated, child labour is also linked to poverty, single parent households and poor parental skills. Intervention in education needs to be accompanied by interventions in the labour markets and by social protection measures, such as family support services, if programmes are to be effective and successful.

Interventions must also aim at empowering the poor. According to the ILO publication entitled *Action Against Child Labour*, interventions must also include a strong and effective labour inspectorate; an independent and competent judicial system; and the provision of income-earning opportunities to the poor through employment creation and poverty alleviation schemes; small enterprise development; minimum wage systems and social safety nets for the most needy.

Barbados may also wish to undertake a cost benefit analysis of the interventions required to eliminate child labour. In this regard, the 2004 ILO/IPEC Study on *Investing in Every Child: an Economic Study of the Costs and Benefits of Child Labour* provides an interesting methodology for such study. The study estimated the costs of:

- (i) building new schools, training and hiring new teachers, supplying additional educational materials;
- (ii) administering the income transfer programme to defray the cost to households of transferring children from work to school;
- (iii) achieving the urgent elimination of the worst forms of child labour and addressing the needs of special populations;
- (iv) the value of child labour foregone.

In terms of benefits, the study identified:

- (i) improved productivity and earning capacity associated with greater education; and
- (ii) reduced illnesses and injuries due to the elimination of the worst forms of child labour

Putting together these two analyses—net economic benefits and public sector costs—the study demonstrated that a protracted period, approximately fifteen years, of net costs is followed by an even longer period of still larger net benefits. Indeed, the costs are complete after 20 years, but the benefits continue for as many as 40 years past that point. The study advocates that the child labour elimination programme be placed on the table in discussions over debt relief and development assistance.

4.2 Legal Framework

4.2.1 Minimum Age for Employment

As noted earlier, ILO Convention No. 138 requires member States to determine a general minimum age for admission to all types of employment. This age should not be lower than the compulsory age for the completion of basic education and in any case not less than 15 years. The general minimum age is to be determined at the time of ratification of the Convention.

Barbados, after consultation with the social partners, has determined a minimum age for admission to employment or work at age 16, which is the compulsory age for the completion of schooling in Barbados. Barbados is to be commended for using the optimal age and not availing itself of the special dispensation of a lower minimum age offered to developing countries. *The establishment by Barbados of a minimum age of 16 years for admission to employment or work is a good practice that other Caribbean countries should strive to achieve in the shortest possible timeframe.*

However, it should be noted that Barbados' minimum age does not apply to all sectors of the economy as required by the Convention. *It is restricted to employment in industrial undertakings and ships.* Industrial undertakings are defined to include not only factories but also mines, construction, public utilities, and port: (Employment [Miscellaneous Provisions] Act Chapter 346 Sections 10 and 11). The industrial sector accounts for about 20% of employed labour. Therefore the general minimum age of 16 appears to be very restrictive.

It is recommended that to be fully compliant with ILO Convention No. 138 the Employment (Miscellaneous Provisions) Act needs to be amended to provide that as a general principle, the minimum age for admission to employment in all undertakings should be 16 years of age.

In addition, the Occupational Training Act enacted 1st October 1979 sets the minimum age for persons to enter into contracts of apprenticeship or training in any occupation at 16 years. However Section 14(2) provides that a minor may not enter into a contract of apprenticeship or training except he/she first obtains the consent of his/her parent or guardian or, if he/she has no parent or guardian the consent of the Chief Labour Officer. All apprentices under the age of 18 years must have a medical certificate of fitness to be employed in the occupation in which he/she seeks apprenticeship or training.

The employer is required to lodge for registration with the Director of Training the contract of apprenticeship and the medical certificate of fitness. Overtime work of apprentices under 18 years is prohibited.

These provisions appear to be consistent with the requirements of the ILO Conventions on child labour.

4.2.2 Light Work

It should be noted here that ILO Convention No. 138 makes provision for a lower minimum age for light work. Light work may be undertaken by children two years younger than the declared minimum age for admission to general employment. Light work is work which is “*not likely to be harmful to the health or development of young persons and 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.*” However, the activities, number of hours and other conditions in which such work may be permitted must be determined by the competent authority.

The Recruiting of Workers’ Act Chapter 354 enacted in 1938 provides in Section 5 that as a general principle that persons under the age of sixteen years shall not be recruited. This same section provides that the Minister of Labour and Social Security may by regulations permit persons under that age but above the age of 14 years to be recruited with the consent of their parents or guardians for employment upon light work subject to such conditions as he/she may prescribe.

This Act also provides additional safeguards. The recruited workers must be brought before a magistrate and be medically examined.

However, the scope of the Recruiting of Workers’ Act appears to be somewhat ambiguous. One Labour Officer explained that it relates to recruitment for overseas employment. This view is supported by the chapeau of the Act, which states that it is an Act to carry out certain Conventions of 1936 relating to recruiting of workers. However the term *worker* is defined to mean “a person who is intended to be employed in work of any kind, whether manual or clerical, and whether within or without the Island”.

Although work is permitted in the non-industrial sector for persons under sixteen (16) years, there are substantial restrictions regulating such employment. Such employment is prohibited during school hours (Section 14 (1) of the Employment (Miscellaneous Provisions) Act), which are ordinarily between 8:00 a.m. to 3:00 p.m. from Monday to Friday during the school terms. In addition, they cannot be employed in night work, that is, from 6:00 p.m. to 7:00 a.m. (Section 13 of the Employment (Miscellaneous Provisions) Act).

Therefore, a child from age 14 years may be allowed to work in a non-industrial undertaking from 3:00 p.m. to 6:00 p.m. during the school term and on non-school days from 7:00 a.m. to 6:00 p.m. The law does not expressly restrict such work for children to what is stipulated as light work in the Convention. The law merely prohibits any work in industrial undertakings and ships as well as hazardous work for children.

It is recommended that the Employment (Miscellaneous Provisions) Act be amended to make provision for children to be engaged in light work in certain restricted undertakings to be determined by the competent authority after consultations with the representative organizations of employers and workers. The current coverage of all sectors other than the industrial sector is too broad and not consistent with the objectives of ILO Convention No. 138.

Barbados may wish to consider the good practice of the Commonwealth of the Bahamas, which restricts light work to only four activities for a limited duration of five years.

Barbados may also consider the adoption of a legal provision, similar to the Bahamas, on the prohibition of employment during school hours. The Barbados law limits the prohibition of employment to children and young persons of compulsory school age during school hours. The Bahamas law is applicable to all children and young person attending school regardless of whether they are of compulsory school age. It should be noted here that there are students in the Barbados secondary school system who are over the compulsory school age and therefore outside of the protection of the Employment (Miscellaneous Provision) Act. Such children require protection to ensure that their educational development is not harmed by work.

4.2.3 Artistic Performances

There is no legislative provision or policy in Barbados regarding the engagement of children in artistic performances. There are instances of artistic performances by children under 16 years in Barbados. The issue to be decided is whether those instances of artistic performances can be characterized as child labour. These performances are mainly talent shows and cultural performances at Crop Over and Independence Festivals. The performances are not paid performances and in the main do not offend child labour Conventions.

With respect to artistic performances which may be considered child labour, there should be an amendment to the Employment (Miscellaneous Provisions) Amendment Act to allow for the person seeking to engage the services of the child performer to obtain a permit from the Chief Labour Officer, who shall be required to consult with the BEC and CTUSAB, and impose such conditions to ensure that the welfare of the child is guaranteed.

The Government of Barbados may wish to consider adopting laws similar to those of the Bahamas on artistic performances of children under 16 years. In the Bahamas no child

may be engaged in artistic performances unless the Minister of Labour, after appropriate consultations with the representative organizations of workers and employers, gives a permit.

4.2.4 Hazardous work

Both ILO Conventions No. 138 and No.182 prohibit the engagement of young persons under the age of 18 years to undertake hazardous work. As indicated earlier, hazardous work is defined as any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize their health, safety or moral development. ILO Convention No. 182 characterizes hazardous work as a worst form of child labour.

Protection from Hazardous Work

In Barbados, the Employment (Miscellaneous Provisions) Act, 1977, the Factories Act, 1984 and the Shipping Act 1994 provide reasonable protection from hazardous work to young persons (between the age of 15 and 18 years) engaged in employment in industrial undertaking. However, inadequate protection is afforded to young persons employed in other sectors.

The Employment (Miscellaneous Provisions) Act Section 8 prohibits persons under the age of 18 years from engaging in any work the nature of which or the circumstances in which it is carried out is likely to harm the safety, health or morals. However, factory inspectors limit their inspection to the industrial sector.

Section 9 requires employers of young persons employed in industrial undertakings and ships to keep a register in which the employer shall record:

- (a) their names and addresses;
- (b) the dates of their birth; and
- (c) the dates of their entering and leaving the service of that employer.

It is submitted that these legal provisions are too restricted. They should be applicable to all employers and not merely industrial undertakings and ships.

The Factories Act Chapter 347 enacted on 1st March 1984 makes provision for the safety, health and welfare of persons employed *in factories*. This Act makes special provisions for young persons defined as a person who has attained the age of 15 years but under the age of 18 years. The amendment of the age of *young person* to mean a person between 16 and 18 is limited to the Employment (Miscellaneous Provisions) Act. However, since there is a prohibition of persons under sixteen years working in factories by virtue of the Employment (Miscellaneous Provisions) Act, in practice the applicability of the provisions in the Factories Act for young persons would be for persons between 16 and 18 years. *For the avoidance of all doubt, it is recommended that the Act be amended to state that a person who has attained the age of 16 but under the age of 18.*

List of Hazardous Work

The Act prohibits the employment of young persons in certain processes connected with lead manufacture. It states in Section 66 that no young person nor woman shall be employed in any of the following, namely,

- (a) work at a furnace involving the reduction or treatment of zinc or lead ores;
- (b) the manipulation, treatment or reduction of ashes containing lead, the desilverising of lead or the melting of scrap lead or zinc;
- (c) the manufacture of solder or alloys containing more than 10 percent lead;
- (d) the manufacture of any oxide, carbonate, sulphate, chromate, acetate, nitrate, or silicate of lead;
- (e) mixing or pasting in connection with the manufacture or repair of electric accumulator or the recovery of plates or lead compounds from discarded accumulators;
- (f) the cleaning of workrooms where any of the processes mentioned above are carried on; or
- (g) the manufacture of paint containing lead or the dry rubbing down of surfaces treated with paint containing paint.

It is submitted that *this categorization of hazardous work is too limited. It does not take into account work that exposes children to psychological or sexual abuse or to an unhealthy environment. The competent authority, in consultation with the representative organizations of employers and workers, must therefore determine all types of employment or work that is considered to be hazardous for young persons bearing in mind the ILO Recommendation No. 190. In addition, the law should provide for the list of hazardous work to be periodically examined and reviewed.*

It should be noted here that the issue of health and safety is also addressed in collective agreements and the management of industrial relations at the workplace. The Employers' Confederation has recently brought on staff a health and safety officer responsible for advocacy and education and negotiations. A greater emphasis is placed on health and safety issues.

Night Work and Rest Periods

The Employment (Miscellaneous Provisions) Act provides further protection in terms of night work and rest periods. Section 8 prohibits night work except in limited circumstances. It provides that:

“Except as set out in this Part, no young person shall be employed in any industrial undertaking during the night or in any work that by its nature or the circumstances under which it is done is likely to cause injury to his/her health, safety or moral.” Night is defined here as the period commencing at 6:00 p.m. of one day and ending at 7:00 a.m. of the following day.

The Act further provides that for the purposes of apprenticeship or vocational training in a specified industry or undertaking that is required to be carried on continuously, the Minister may, after consultation with the workers' and employers' organizations concerned, authorize the employment, during the night, of young persons. Where the

Minister authorizes the employment of a young person at night that young person shall be granted a period for rest of at least thirteen consecutive hours between two periods of work.

Medical Examination

The Factories Act also provides for the medical examination of young persons. It states in Section 70 that subject to Section 72, no young person shall be admitted to employment in a factory for a period exceeding 2 weeks unless after a medical examination he has been found fit for the work he is employed to do.

Power of Inspectors

By Section 74, where an inspector is of opinion that the employment of a young person in a factory or in a particular process or kind of work in a factory is injurious to his/her health or the health of other persons, he shall immediately report the matter to the Chief Labour Officer who may by notice in writing served the occupier of the factory require that the employment of the young person in that factory or process or kind of work be discontinued within a specified time.

Liability

The laws also impose obligation on occupiers of every factory. They are required to complete and submit to the Chief Labour Officer a return of persons employed. This return includes:

- (a) the number of persons employed in the factory;
- (b) the hours of employment of young persons employed;
- (c) the ages, sex and occupation of all the persons employed;
- (d) the products and product lines manufactured in the factory; and
- (e) such other matters that the Minister requires.

Ministerial Power

By Section 104, the Minister may make special regulations requiring special arrangements to be made for the medical supervision of young workers where he is satisfied that they are employed or are about to be employed in work likely to cause injury to their health.

By Section 106, the Minister may make regulations prohibiting the employment, or modifying or limiting the hours of employment, of all persons or of any class of persons connected with any manufacture, machinery, plant, process or description of labour. He may also make regulations prescribing the manner in which and the place where examinations for the purpose of certifying fitness of young persons for employment shall be conducted as well as respecting the facilities to be afforded by occupiers of factories for the purpose of examinations of young persons.

The legislation does not specifically stipulate that the Minister must consult social partners in making regulations. However, the principle of consultation with social partners is engrained in the industrial relations landscape of Barbados and is guaranteed to be applied even in the absence of a legislative requirement.

Judicial Authority

Section 42 grants the Court the power to make orders as to dangerous conditions. It states as follows:

Where the Chief Labour Officer is satisfied that

- (a) any part of the ways, works, machinery or plant used in a factory is in such a condition, is so constructed or is so placed that it cannot be used without risk of bodily injury;
 - (b) any process or work is carried on or anything is or has been done in any factory in such a manner as to cause risk of bodily injury or endanger health; or
 - (c) a factory is in such condition or is so constructed or placed that any process or work carried on cannot be carried on with due regard to the safety, health and welfare of the persons employed in that factory,
- he may bring a complaint before a magistrate. The magistrate may prohibit the use of that part or process absolutely or subject to conditions.

This provision is of general application and not specific to young persons. There is no provision for tripartite consultations.

There is a legal framework for the protection of the health and safety of young persons but its provisions are limited to the industrial sector. This is inadequate for the requirements of the ILO Conventions. There is need for a more comprehensive framework for health and safety of young persons throughout the economy.

4.2.5 Exclusions

The Convention includes several flexibility provisions. Apart from the exception for light work, it permits the exclusion of limited categories of work for which special and substantial problems arise. The procedure requires the Government to consult with the social partners in its determination of excluded categories. However, work that is likely to jeopardize the health, safety or morals of young persons may not be excluded. Moreover, States must review excluded categories on an ongoing basis and make progress towards eliminating the special and substantial problems, which make broad application difficult.

While Barbados has made no express declaration on ratification of ILO Convention No. 138 regarding limitation of the scope of the Convention or introducing a lower age for light work, it seems that its legislative practice has been in line with such a limitation. The general age for the admission to employment or work fixed at 16 years is limited to a small section of the economy equivalent to the minimum areas prescribed in Article 5 Paragraph 3 of the Convention. All other areas are excluded from the minimum age even though there was no declaration by Barbados regarding the limitation of the scope of the Convention.

It is recommended that the Government of Barbados give consideration to amending its Employment (Miscellaneous) Act to widen the scope of its minimum age provision to include all types of work subject to a few exceptions, if necessary.

4.3 Unconditional Worst Forms of Child Labour

ILO Convention No. 182 requires member States to eliminate the worst forms of child labour, which are defined as:

- 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 recruitment of children in armed conflict;
- the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs;
- work, which by its nature or the circumstances in which it is carried out, is likely to harm the safety, health or morals of children.

The legislation should in all cases:

- prohibit the worst forms of child labour;
- provide for the determination and periodic revision of the types of hazardous child labour, either directly or by mandating a competent authority to do so;
- establish measures aimed at eliminating the worst forms of child labour;
- apply measures addressing the performance of the worst forms of child labour;
- identify the special needs of certain groups of children who are particularly at risk;
- establish effective implementation and enforcement measures.

4.3.1 All forms of slavery or practices similar to slavery

The Constitution of Barbados under Section 14 declares that, “no person shall be held in slavery or servitude”. According to Section 33 of the Offences Against the Person Act, 1994, “any person who imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his/her will any person as a slave is guilty of an offence and is liable on conviction on indictment to imprisonment for life”. The law is general to all persons and not specific to children and young persons. Given the nature of the crime and the sanction, it is not necessary to have a specific offence related to children and young persons.

4.3.2 Sale and trafficking of children

There exists no specific legislation on human or child trafficking in Barbados. Section 35(3) of the Offences Against the Person Act, states that, any person, who with the intent to send away any child under the age of sixteen years from Barbados for the

purpose of being employed in any other place and without the knowledge of the parent or parents or the person having the care, charge or custody of the child, sends or carries away or causes or procures to be sent or carried away from Barbados that child, is guilty of an offence which is triable on indictment or summarily.

Further, according to Section 35(1) of the same Act, any person who;

(a) unlawfully, either by force or fraud, leads or takes away or decoys or entices away or detains any child under the age of 14 years, with intent to deprive any parent, guardian or other person having the lawful care or charge of such child of the possession of such child or with intent to steal any article upon or about the person of such child to whomsoever such article may belong; or

(b) with any such intent receives or harbours any such child, knowing the same to have been by force or fraud, led, taken, decoyed, enticed away or detained as described in paragraph (a), is guilty of an offence and is liable on conviction on indictment to imprisonment for a term of seven years.

It is recommended that legislation be enacted to deal with child trafficking and that the upper age limit of the offences under Sections 35(1) and 35(3) of the Offences Against the Persons Act be amended to 18 years to be consistent with ILO Convention No. 182.

Section 16 of the Sexual Offences Act lays down provisions to punish any person who unlawfully takes away or causes to be taken away or detains another person against the will of that other person with intent to marry or to have sexual intercourse with the other person or to cause the person to marry or to have sexual intercourse with any other person.

4.3.3 Debt bondage, serfdom, forced and compulsory labour

According to Section 14(2) of the Constitution, no person shall be required to perform forced labour. Section 34 of the Offences Against the Person Act, states that, “any person who unlawfully compels any person to labour against the will of that person is guilty of an offence and is liable on summary conviction to imprisonment for a period of six months”.

4.3.4 Compulsory recruitment of children in armed conflict

The Government’s report to the CRC indicates that a person may enlist voluntarily into the armed forces at the minimum age of 18 years; Section 19(2) (Chap. 159) of the Defence Act states that a recruiting officer shall not enlist a person under the age of 18 years in the regular force unless consent to the enlistment has been given in writing by a parent or person in whose care the young person is held. The provisions under the Defence Act seem to permit the recruitment of children below 18 years in the armed forces with their parental consent. This provision is out of line with Caribbean practice and seems to conflict with the Convention.

It is recommended that compliance with ILO Convention No. 182 requires that the Defence Act be amended to increase the age of recruitment to the Defence Force to 18 years as exists in the other Caribbean countries whose laws were reviewed in this study.

4.3.5 Use, procuring or offering a child for prostitution, pornography or pornographic performances

According to Section 13 of the Sexual Offences Act, 1992,

A person who-

- (a) procures a minor *under sixteen years of age* to have sexual intercourse with any person either in Barbados or elsewhere; or
- (b) procures another for prostitution, whether or not the person procured is already a prostitute, either in Barbados or elsewhere; or
- (c) procures another to become an inmate of a brothel or to frequent a brothel, whether the person procured is already an inmate of a brothel in Barbados or elsewhere,

is guilty of an offence and is liable on conviction on indictment to imprisonment for fifteen years.

Section 17 of the Sexual Offences Act holds liable a person who being the owner, occupier or manager of the premises; or having control of premises or assisting in the management or control of the premises, induces or knowingly suffers *a minor under sixteen years of age* to resort to or to be in or upon the premises for the purpose of having sexual intercourse with any other person. According to *Section 12(2)*, a person who commits an act of serious indecency with or towards *a child under the age of 16 years* or incites the child under that age to such an act with him or another is guilty of an offence and is liable on conviction to imprisonment for a term of fifteen years.

It is recommended that legislation be enacted to make the use, procuring or offering a child under the age of 18 years for prostitution, pornography or pornographic performances an offence.

The Sexual Offences Act ensures that all persons responsible for the offences are punished. Section 18 of the Sexual Offences Act lays down provisions to punish the person who keeps, manages, or assists in the management of a brothel. Section 19 imposes penalties on a person who knowingly lives wholly or in part on the earnings of prostitution or in any place solicits for immoral purposes.

The Protection of Children Act, 1990 offers protection to children under 18 from exploitation in pornography. According to Section 3 of the Act;

(1) Any person who-

- (a) takes or permits to be taken any indecent photograph of a child; or
- (b) distributes or shows an indecent photograph of a child;
- (c) has in his/her possession indecent photographs of a child whether or not with a view to their being distributed or shown by that person or others; or

(d) publishes or causes to be published any advertisement likely to be understood as conveying that the advertiser distributes or shows indecent photographs of children or intends to do so,
is guilty of an offence.

(2) For the purposes of this Act, a person is to be regarded as distributing an indecent photograph if that person parts with possession of the photograph, or exposes or offers it for acquisition by another person.

4.3.6 Use, procuring or offering a child for illicit activities, production and trafficking of drugs

Sections 4 to 8 of the Drug Abuse (Prevention and Control) Act, 1990 lay down the provisions relating to the restrictions on controlled drugs, such as; importation and exportation; production and supply; possession; handling, and misuse of any controlled drugs in Barbados.

According to Section 18(2) of the Act, no person shall on his/her own behalf or on behalf of any other person whether or not such other person is in Barbados; (a) traffic in a controlled drug, (b) offer to traffic in a controlled drug or in a substance he believes to be a controlled drug, (c) do or offer to do an act preparatory to or for the purpose of trafficking in a controlled drug or in a substance he believes to be a controlled drug, unless such a person is authorized to do so according to the provisions of Section 12 of the Act. This subsection shall apply whether or not the controlled drug is in Barbados or is to be imported into Barbados or is ascertained or in existence.

Section 22 of the Act states that;

it shall be unlawful for any person to knowingly and intentionally-

(a) employ, hire, use, persuade, entice or coerce a child or a young person to contravene any provision of this Act;

(b) employ, hire, use, persuade, induce, entice or coerce a child or young person to assist in avoiding detection or apprehension for any offence under this Act;

(c) receive a controlled drug from a child or young person in contravention of any provision of this Act.

According to Section 2 of the Act, “child” means a person under 14, and “young person” is reached 14 and under 18 years of age.

Further, according to Section 21(1) it is unlawful for a person to have a controlled drug in his/her possession in or within a radius of one hundred yards of any school premises. For the purposes of this Act, the expression “controlled drug” means any narcotic drugs, or any psychotropic substances listed in Part I and Part II of the First Schedule, and any listed substances in Part III of the First Schedule of this Act.

It is submitted that the laws on illicit drugs are fully compliant with the requirements of ILO Convention No. 182.

4.4 Enforcement

ILO Convention No. 138 provides that all necessary measures must be taken by member States to ensure the effective enforcement of the provisions of the Convention. Minimum age provisions should be enforced through sanctions. The legislation should:

- provide for penalties and other necessary measures for violations of child labour provisions (Article 9 (1));
- ensure that the law provides for sanctions for all persons responsible for under-age employment (e.g. employers, parents, guardians, etc.)
- ensure that sanctions are sufficiently deterrent;
- diversify sanctions between criminal, civil and administrative sanctions;
- diversify sanctions as a function of the seriousness of the offence, e.g. heavier sanctions for the employment of children in hazardous than in non-hazardous work, heavier sanctions for repeat offenders;
- facilitate the access of children to legal remedies, e.g. by ensuring that children can join trade unions as soon as they are admitted to work, or by guaranteeing legal standing for trade unions (or other civil society organizations concerned with child labour) to represent children in law;
- ensure that laws do not subject children themselves to penalties for engaging in under-age work even if it is illegal.

Sanctions

There are legal sanctions in Barbados on employers and others responsible for child labour violations. The Employment (Miscellaneous Provisions) Act provides in Section 15 that an *employer* who employs any person in contravention of this Act is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding twelve months or both.

Section 16: If the employer had used due diligence to comply with the Act and that some other person had committed the offence without the knowledge, consent or connivance of the employer, then that other person may be convicted and the employer acquitted.

Section 18: Where on information of a member of the Police Force, the Port Manager or the Chief Labour Officer it appears to any Justice of the Peace that there is reasonable cause to believe that a child is employed in any place contrary to the Act, such Justice of the Peace may authorize any member of the Police Force to enter that place at any reasonable time within forty-eight hours and examine such place and any person therein concerning the employment of any child therein. Any person who assaults, obstructs or intimidates, uses indecent, abusive or insulting language; interferes with, hinders or refuses to admit; or by any gratuity, bribe, promise or other inducement prevents or attempts to prevent from entering such place and examining that person therein a member of the Police Force is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding twelve months or both.

Section 19: Any employer in an industrial undertaking or ship who refuses to maintain a register of young persons employed with them is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding twelve months or both.

Liability of Parent or Guardian

Section 20: Where a parent of a child or guardian or a person having custody of a child by willful default or neglect fails to exercise due care over such child or conduces to the offence of taking a child into employment contrary to this Act is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars or imprisonment for a term not exceeding three months or both.

In addition, where a child is taken into employment in any industrial undertaking or ship contrary to the Act on the production, by or with the privity of the parent or person having actual custody of the child, of a false certificate of birth or on the false representation by the parent or the person having actual custody of the child is of such age that his/her employment is not in contravention of this Act, that parent or person is liable on summary conviction to a fine not exceeding one hundred dollars or imprisonment for a term not exceeding three months or both.

Penalties

Section 21: Where a conviction has been obtained under this Act and the offence continues, the offender is liable to a fine not exceeding two hundred and fifty dollars for each day or part thereof during which the offence continues after conviction has been obtained.

The Factories Act provides for liability of employers, occupiers and employees for infringement of the Act. The Act in Section 109 provides that any person who contravenes any provision of the Act for which no specific penalty is provided is guilty of an offence and liable on summary conviction, in the case of an owner or occupier, to a fine of \$500.00 or if the offence continues after such conviction to a further fine of \$100.00 per day in respect of which the offence continues and in the case of an employee to a fine of \$100.00. If the contravention is the act or omission of the owner or occupier and causes death or injury that results in permanent injury such owner or occupier is liable in summary conviction to a fine of \$5,000.00

Section 110: Where an occupier or owner of a factory has been convicted of an offence under the Act, the court may, in addition to or instead of imposing a fine, order him within such time as the court determines, to take such steps as the court specifies for remedying the matters in respect of which the contravention occurred, and may, on application, extend the time stated in the order, and where an extension is allowed, the occupier is not liable in respect of any continuation of the contravention during the extended time, but if, after the expiration of the time as originally specified or as extended the order is not complied with, the occupier or owner, as the case may be, is

liable to a fine of \$100.00 for each day on which the non-compliance continues after the date on which the conviction was first obtained.

Section 111: Any person who

- (a) forges or counterfeits any certificate required by, under or for the purposes of, this Act or any regulations or orders made pursuant to this Act;
- (b) gives or signs any such certificate knowing it to be false in any material particular;
- (c) utters or makes use of any such certificate knowing it to be so forged, counterfeited or to be false;
- (d) knowingly utters or makes use of as applying to any person any such certificate that does not so apply;
- (e) personates any person named in any such certificate;
- (f) falsely pretends to be an inspector;
- (g) willfully connives at any forging, counterfeiting, giving, signing, uttering, making use, personating or pretending specified in paragraphs (a) to (f);
- (h) willfully makes a false entry in any register, notice, certificates, or document required by, under or for the purposes of this Act or any regulation or order made pursuant to this Act to be kept or served or sent;
- (i) willfully makes or signs a false declaration required by, under or for the purposes of this Act or any regulation or order made pursuant to this Act; or
- (j) knowingly makes use of false entry or declaration,

is guilty of an offence and is, without prejudice to any other penalty the court imposes, liable on summary conviction to a fine of \$500.00 or imprisonment for a term of 3 months.

Section 112: Where an act or default for which an occupier or owner is liable, under this Act is in fact the act or default of some agent, servant, employee or other person, that agent, servant, employee or other person is liable and punishable as if he were the occupier or owner, as the case may be.

Section 113: (1) An occupier or owner of a factory who is charged with an offence under this Act, is entitled, upon information duly laid by him before a magistrate and on giving to the prosecution not less than three days' notice in writing of his/her intention, to have any other person who he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or owner of the factory proves to the satisfaction of the court

- (a) that he has used all due diligence to enforce the execution of the provisions of this Act and of any relevant regulations or orders made pursuant to this Act; and
- (b) that the other person had committed the offence in question without his/her consent, connivance or willful default, that other person may be convicted and the occupier or owner acquitted and the person so convicted may at the discretion of the court be also liable to pay the costs of the proceedings.

(2) The prosecution may, in a case to which subsection (1) relates,

- (a) cross-examine the occupier or owner, if he gives evidence, and any witness called by him; and
- (b) call rebutting evidence.

(3) Where an inspector, upon his/her discovery of the commission of an offence, is satisfied as to the person by whom the offence was committed and that

- (a) the occupier or owner as the case may be of the factory has used all due diligence to enforce the execution of this Act; and
- (b) the offence has been committed without the consent, connivance or wilful default of the occupier or owner and in contravention of his/her orders,
the inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier or owner of the factory.

Section 114: Where, under this Act any person is substituted for the occupier or owner with respect to any provision of this Act, any order, summons, notice or proceeding which for the purpose of these provisions is by or under this Act required or authorized to be served on or taken in relation to the occupier or owner, is hereby required or authorized, as the case may be, to be served on or taken in relation to that person.

Section 115: Where, in a factory the owner or hirer of a machine or implement moved by mechanical power is some person other than the occupier of the factory such owner or hirer shall be deemed to be occupier of the factory in so far as respects any offence under this Act committed in relation to a person who is employed in or about or in connection with that machine or implement, and is in the employment or pay of the owner or hirer.

According to Section 103(2) of the Shipping Act, no person shall employ an individual under the age of 18 years in any capacity in any Barbadian ship unless a certificate granted by a duly qualified medical practitioner certifying that that individual is fit to be employed in that capacity, is delivered to the master of the ship. Subsection (4) of Section 103 prohibits the employment of any person under the age of 18 years in the engine room of any vessel unless he is an apprentice working under supervision, and does not apply to a vessel in which members of the same family are employed.

Section 67 of the Liquor Licences Act states that;

- (i) No person under the age of 18 years shall be employed in connection with the sale or supply of intoxicating liquor on any premises in respect of which a retail member's club or proprietary club licence is granted.
- (ii) No person under the age of 18 years shall be wholly or mainly employed in serving intoxicating liquor on any premises in respect of which a restaurant or hotel licence is granted.

The laws provide an effective coverage of sanctions for offences related to ILO Convention No.138. However, having regard to the fact that the quantum of fines was

determined over two decades ago, the Government of Barbados may wish to review the fines to bring them in line with the deterrent principle mentioned in the ILO Conventions.

With respect to the unconditional worst forms of child labour, there are severe penalties relating to:

- Procurement and procuring by defilement of person is an offence, which is punishable with imprisonment for 15 years (Sexual Offences Act, Section 13 and 14).
- A person who detains another person in any brothel or in or upon any premises with intent that the person detained may have sexual intercourse with any other person is guilty of an offence and is liable to imprisonment for 15 years (Section 15).
- Penalty for abduction of persons, under Section 16 is imprisonment for 10 years.
- Anyone who keeps, manages or assists in the management of a brothel, or being the owner, occupier, lessor or landlord permits any part of the premises to be used as a brothel is guilty of an offence and is liable to imprisonment for a term of 5 years or to a fine of \$5000 (2,525.25 USD) or to both (Section 18)

According to Section 33 of the Offences Against the Person Act, buying or disposing of person as a slave is an offence punishable with imprisonment for life. Under Section 34, unlawful compulsory labour is punishable with imprisonment for a term of six months.

According to Section 9 of the Protection of Children Act, a person who is convicted of an offence related to pornography or pornographic performances by children is liable to imprisonment for a term of five years, or on summary conviction to a term of two years.

Under the Drug Abuse (Prevention and Control) Act, the offence related to importation, exportation, production, supply and possession of controlled drugs is punishable with a fine of \$250,000 (126,262 USD) or imprisonment to 5 years or both. Drug trafficking under Section 18 of the Act shall be punishable with a fine of \$250,000 or where there is evidence of the street value of the controlled drug three times the street value of the controlled drug whichever is greater and to 7 years imprisonment. Employing, hiring or using children or young person in drug trade (Section 22) and supplying a controlled drug to a child or young person (Section 23) is an offence punishable on summary conviction to a fine of \$250,000 and imprisonment for 7 years and on indictment to imprisonment for life.

4.5 Investigation and inspection

Investigation

In order to properly enforce child labour laws and create effective programmes aimed at the elimination of child labour, instances of child labour and the circumstances surrounding such labour first have to be identified. The Conventions provide for the identification of occurrences of child labour by:

- a legal requirement for a systemic review of the national child labour situation, including the collection of detailed information and statistical data on the nature and extent of child labour, including information on:

- the sex of child workers, their age, occupation, branch of economic activity, status in employment, school attendance and geographic location;
- violations of national provisions for the prohibition and elimination of the worst forms of child labour; and
- ensuring that NGOs, trade unions, religious institutions, charitable organizations and other concerned groups play a role in the investigation of child labour.

Review

In Barbados, there is no legislation mandating a systemic review of the national child labour situation. The lack of legislation is generally not an impediment to the review of child labour situation. Policy or administrative arrangements could be made even in the absence of legislation for such a review. However in Barbados there has been no systematic review. In fact, the recent Annual Reports of the Labour Department seen by the author made no reference to child labour in terms of investigation, inspections or policy development.

It is recommended that consideration be given to amending the Labour Department Act to provide for a legal duty on the part of the Chief Labour Officer to have systemic reviews of the child labour situation in Barbados.

Inspection

Once the existence of child labour is established, compliance with minimum age legislation should be actively pursued. Inspection services normally carry out this function, and a legal mandate is important to ensure that their work is bolstered by the necessary authority and carried out equitably. In providing for such a mandate, the legislation could:

- establish a framework for the operation of labour inspection setting out certain necessary entitlements, including training to detect abuses in the employment of children and young persons and to correct such abuses, adequate transportation in order to inspect rural areas, etc;
- ensure that labour inspection services have the power to secure the enforcement of legal provisions relating to the employment of children and young persons;
- ensure that the mandate of the labour inspection services extends to all workplaces where child labour actually exists;
- establish the role of inspectors in supplying information and advice on effective means of complying with child labour provisions and securing their enforcement;
- mandate a gender balance within the labour inspection services;
- ensure that labour administration services (including labour inspection services) work in close cooperation with the services responsible for the education, training, welfare and guidance of children and young persons;
- provide that the labour inspection services have a duty to respond to alleged violations reported by trade unions or any other public organizations which, in the discharge of their functions, are liable to obtain critical information on violations of the provisions relating to child labour.

In Barbados, the duties of the Chief Labour Officer, Deputy Chief Labour Officer and Labour Officers in respect of labour inspections are laid out in Section 5 of the Labour Department Act Chapter 23 enacted on 1st September 1943. Their duties shall be to:

- (a) ensure that the laws in force concerning conditions of employment and the protection of employees in their occupations are fully applied;
- (b) to give technical information and advice whenever necessary to employers and employees as to the most effective means of complying with the said laws;
- (c) indicate in their inspection reports difficulties or abuses not specifically covered by existing laws;
- (d) visit places of employment and to institute enquiries for the purpose of performing the duties set forth above;
- (e) establish statistical data in the course of their enquiries, as instructed by the Chief Labour Officer.

The labour inspectors have the power to enter, inspect and examine at all reasonable times by day and night any premises or place liable to inspection, when he has reasonable cause to believe to be liable to inspection. He may require the employer to provide documents and information to show that all laws are complied with.

Every employer who employs ten or more employees shall, when requested by the Chief Labour Officer, furnish him with the following particulars in respect of his/her business, trade or profession:

Number of employees (adults and juveniles) and sex.

It is generally regarded that child labour tends to take place in small informal enterprises. It is therefore recommended that this provision be amended to include all employers, regardless of the number of persons they employ.

Use of Information

There are limitations with respect to the information provided by the employer. Section 9 states that no individual return or information provided by the employer shall, without the previous consent in writing of the person giving the information be published nor, except for the purposes of a prosecution, shall any person engaged in connection with the collection or preparation of statistics under this Act be permitted to see any such return.

It further states that no person engaged in connection with the collection or preparation of statistics under this Act shall disclose or make use of the contents of any such return or information. Any person who knowingly acts in contravention of this subsection is guilty of an offence and is liable on summary conviction to a fine of one hundred and twenty dollars or to imprisonment for three months.

Moreover, any report, summary of statistics or other publication prepared in accordance with this Act shall not be disclosed in any manner whatsoever to identify any particulars as being particulars relating to an individual person or business. The

Government of Barbados may wish to consider whether there is need for some qualification to ensure that statistics on child labour be maintained in the manner prescribed by the Convention.

The Act creates certain offences for refusing or neglecting to provide labour inspectors with returns or information required or for furnishing false information or hinders obstructs or molests a labour inspector in the exercise of his/her powers. Such a person is liable on summary conviction to a fine of fifty dollars or to imprisonment for three months.

This penalty of a fine of fifty dollars was set in economic circumstances that are different from modern reality and needs to be reviewed. The labour inspectors are not empowered to hand down administrative sanctions such as fines or suspension of operating licenses. These are left to the courts.

4.6 Institutional Framework

The provisions relating to the worst forms of child labour are administered by a number of state agencies. The Ministry of Labour and Social Security is the competent authority and has lead responsibility for enforcing legislation relating to the minimum age for employment and work and hazardous work.

In the areas of unconditional worst forms of child labour, because they are traditionally considered to be crimes, the Royal Barbados Police Service enforces them. In addition, the Child Care Board is the lead agency for prevention and protection of children. The Child Care Board while it does not focus specifically on child labour provides support to ensure that there is no need for children to seek employment. The Board administers a welfare system for children in need and manage a number of day care centers at work as well as after and before school care for students. It also plays an educational role as far as promulgating the rights of the child in society. The Board's role potentially includes the removal and rehabilitation of children from the worst forms of child labour.

Prevention

In terms of the preventive aspects of the convention, the Ministry of Education has a major role to play in ensuring that all children under age 16 attend schools. They are assisted by the Royal Barbados Police Service in the execution of their duties. In Barbados, education is a major tool in the prevention of child labour. Education is free and compulsory from the age of 5 to 16 years and attendance is strictly enforced. Section 43 of the Education Act places the duty on School Attendance Officers to ensure that the parents are complying with their duty to secure education to their children. School attendance officers shall investigate the family circumstances and assist with counselling where necessary or make referrals to other social service agencies, which could facilitate the child's return to school.

According to Section 53 of the Education Act, the Minister may for the purposes of ascertaining which children of compulsory school age require special educational treatment carry out such investigation as he considers necessary, and after the investigation the Minister may provide for the education of any child requiring special educational treatment.

The Ministry of Education has developed a policy statement for schools on alcohol, tobacco, narcotics and other controlled drugs. This policy includes a set of guidelines for principals particularly where there is suspicion that students on school premises are perhaps carrying or involved with controlled drugs.

Barbados is one of the first Caribbean countries to ensure that pregnant students are allowed to return to school after the birth of their child. Of significance is that they are eligible for financial assistance from the state to ensure that they are not forced to seek employment at the expense of their continuing education.

The Ministry of Social Transformation also assists with poverty eradication and empowerment of groups at risk in society and the national insurance system provides some limited form of unemployment insurance.

Traditionally these agencies pursued their mandates without coordination within a child labour context. There is now greater cooperation and coordination among them and a new focus on child labour in their approach.

5. Conclusions and Recommendations

Status of Convention

Barbados is obliged to ensure that its laws comply fully with the requirements of the Convention and that all measures are in place for the implementation of the Convention.

Policy

ILO Convention No. 138 requires Barbados to have a policy for the elimination and prevention of child labour. Unfortunately, although Barbados has sound national policies in areas connected with child labour, such as education, childcare protection, welfare, social security, labour administration and other social development, it is now in the process of developing a comprehensive policy and plan of action for the elimination and prevention of child labour and the worst forms of child labour.

The Committee which is formulating the policy and plan of action is not a Cabinet appointed Committee nor is it institutionally connected with other national Committees dealing with the Rights of the Child nor does it include Non Governmental Organizations. It is a standalone Committee. It is important that the profile of this Committee be enhanced and be connected with other national Committees dealing with rights of the child. A useful structure is the Belizean model where the Committee considering the formulation of policies on child labour is a Sub-Committee of the National Commission on Families and Children and headed by the Director of Labour Administration. Thus the policies are considered within a broader policy, administrative and institutional context which seeks to connect all programmes and institutions promoting the protection of the rights of the child within the society and within the family.

Legal Framework

Minimum Age for Employment

Barbados' minimum age of sixteen (16) years) is too limited in its application to industrial undertakings and ships. Full compliance with ILO Convention No. 138 requires an amendment to the Employment Act to ensure that the minimum age for admission to employment of sixteen (16) years is applicable to *all undertakings*, (subject to limited exceptions for a limited duration, if any).

Light Work

The Government of Barbados did not make any declaration on ratification of ILO Convention No.138 regarding any exception from the minimum age for light work. However, its laws permit work from age 14 for all areas of the economy except the industrial sector and on ships. This exception to the minimum age for employment is not

characterized as light work. It is recommended that the Employment (Miscellaneous Provisions) Act be amended to make provision for children to be engaged in light work in certain restricted undertakings to be determined by the competent authority after consultations with the representative organizations of employers and workers.

In this regard, Barbados may wish to consider the good practice of the Commonwealth of Bahamas whose minimum age for admission to employment or work applies to all undertakings except four activities. Moreover, these exceptions are applicable for a limited duration of five years from 2001 and will expire in the year 2006.

In addition, Barbados may also consider the adoption of a legal provision, similar to the Bahamas, on the prohibition of employment during school hours. The Barbados law limits the prohibition of employment to children and young persons of compulsory school age during school hours. Therefore school children beyond the compulsory school age are not legally prohibited from working during school hours. The Bahamas law is applicable to all children and young person attending school regardless of whether they are of compulsory school age.

Artistic Performances

There is no legislative provision or policy in Barbados to give effect to the requirements of ILO Convention No. 138 regarding the engagement of children in artistic performances. Barbados may wish to consider an amendment to the Employment (Miscellaneous Provisions) Amendment Act to allow for the person seeking to engage the services of the child performer to obtain a permit from the Chief Labour Officer, who shall be required to consult with the representative organizations of employers and workers, and impose such conditions to ensure that the welfare of the child is guaranteed similar to what obtains in the Bahamas.

Hazardous Work

Barbados' laws, which identify activities deemed to be hazardous work, are limited to certain processes in factories. It is submitted that this categorization of hazardous work is too limited and inadequate for the requirements of the ILO Conventions. The competent authority, in consultation with the representative organizations of employers and workers, must determine all types of employment or work that is considered to be hazardous for young persons bearing in mind the ILO Recommendation No. 190. There is need for a more comprehensive framework for health and safety of young persons throughout the economy, which should cover all sectors of the economy.

The laws provide a broad coverage of sanctions. However, having regard to the fact that the quantum of fines was determined over two decades ago, the Government of Barbados may wish to review the fines to bring them in line with the deterrent principle mentioned in the ILO Conventions.

Unconditional Worst Forms of Child Labour

There are laws in Barbados which outlaw most activities involved in the worst forms of child labour. However, these laws are not characterized as child labour but as criminal offences and there are some deficiencies and gap. There is no specific offence of child trafficking, and the upper age limit for some offences under the Offences against the Persons Act and the Sexual Offences Act is below the age of 18 years. It is recommended that Barbados enact a legal regime that specifically addresses the worst forms of child labour.

Institutional Arrangements

There is the need to strengthen the monitoring of child labour in Barbados. In particular, there is the need for greater institutionalized collaboration between the Royal Barbados Police Service and the Ministry of Labour in order to enhance surveillance and detection of the worst forms of child labour. The Police Service must establish protocols and procedures to make the link between criminal economic activities involving children and child labour.

In addition, the Labour Department Act should be amended to provide for a legal duty on the part of the Chief Labour Officer to have systemic reviews of the child labour situation in Barbados.

The confidentiality and non-disclosure provisions relating to the use of information in the Juvenile Offenders Act and the Labour Department Act are too restrictive for the effective establishment of a Central Database on Child Labour and successful implementation of programmes to be developed for the elimination and prevention of child labour. There is therefore the need for appropriate amendments to these laws to allow for use of confidential information in the Central Database and by other State agencies involved in programmes for the elimination and prevention of child labour.

There is the need for greater education on the provisions of the ILO Conventions on child labour for all State agencies that are relevant to the elimination and prevention of child labour. It is important that child labour issues be mainstreamed in all agencies that have responsibility for the protection of children.

Summary conclusions

- (i) There is need for a comprehensive policy framework to guide law reform on the issue of child labour;
- (ii) The gaps in Barbados' laws relating to the requirements of ILO Convention No. 138 could be remedied by a process of amendments to the Employment

- (Miscellaneous Amendments) Act and the enactment of a new Occupational Safety and Health Act to replace the Factories Act;
- (iii) With respect to ILO Convention 182, there should be a specific law relating to the worst forms of child labour so that a special focus and awareness could be given on the need to protect children;
 - (iv) Child labour issues need to be mainstreamed in all institutions that deal with the protection of children;
 - (v) Administrative and institutional mechanisms should be developed for the cohesive and coordinated monitoring and enforcement of laws relating to child labour.

References

- Dunn, Leith L. 2002 *The Situation of Children in the Worst Forms of Child Labour in a tourist economy (Barbados): A Rapid Assessment ILO Subregional Office for the Caribbean*
- Ferguson, Judith (Editor). 1997 *The Law Relating to Children in Barbados, Jamaica, Guyana and Trinidad & Tobago*
- Haspels, Nelien & Jankanish, Michele. 2000 *Action Against Child Labour*. ILO
- ILO Convention No. 138. 1973 *Convention Concerning Minimum Age for Admission to Employment*
- ILO Convention No. 182. 1999 *Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*
- ILO Recommendation No. 146. 1973 *Recommendation Concerning Minimum Age for Admission to Employment*
- ILO Recommendation No. 190 1999 *Recommendation Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*
- ILO. 1997 *Technical Paper: Legislation and Enforcement International Conference on Child Labour, Oslo, Norway*
- ILO. 2002 *Combating Child Labour: a Handbook for Labour Inspectors*
- ILO. 2001 *Substantive Provisions of Labour Legislation: The Effective Abolition of Child Labour*
- ILO. 2004 *Investing in Every Child*
- United Nations Development Programme. 2004 *Regional Report on the Achievement of the Millennium Development Goals in the Caribbean Community*
- United Nations Development Programme. 2005 *Human Development Report 2004*
- United Nations. 2000 *Country Profiles on the Situation of Youth*
- World Bank. 2005 *A Time to Choose: Caribbean Development in the 21st Century*
- World Bank. 2003 *Caribbean Youth Development Issues & Policy Directions*
- Yeboah, Yaa & Panford, Frank. 2003 *Time-Bound Programme Manual for Action Planning - Eliminating the Worst Forms of Child Labour under Time-Bound*

Programmes: Guidelines for Strengthening Legislation, Enforcement and Overall Legal Framework ILO/IPEC

The laws reviewed were:

- The Constitution of Barbados;
- Employment (Miscellaneous Provisions) Act;
- Employment (Miscellaneous Provisions) (Amendment) Act of 2001;
- The Recruiting of Workers Act;
- Occupational Training Act;
- Factories Act;
- Education Act;
- Offences Against the Persons Act;
- The Sexual Offences Act;
- The Protection of Children Act;
- Juvenile Offenders Act;
- The Defence Act;
- The National Council on Substance Abuse Act;
- Drug Abuse (Prevention and Control) Act;
- Liquor Licences Act;
- Child Care Protection Act;
- The Labour Department Act.

APPENDIX I

Summary of Good Practices in Countries Studied

Policy on Child Labour

- (i) The Steering Committee to consider the development of a policy for the prevention and elimination of child labour is appointed by Cabinet. (*Guyana, Trinidad and Tobago*)
- (ii) The Steering Committee is a sub-Committee of the National Committee on Families and Children or with direct links to such a Committee. (*Belize*)
- (iii) The policies for the prevention and elimination of child labour are considered within a broader policy, administrative and institutional context that seeks to connect all programmes and institutions promoting the protection of the rights of the child. (*Belize*)
- (iv) The Prime Minister and the Leader of the Opposition sign a MOU establishing a bipartisan Working Group to build consensus on a National Plan of Action for Children and Adolescents. (*Belize*)

Minimum Age for Employment

- (i) The minimum statutory age declared for admission to work is sixteen years. (*Barbados*)
- (ii) The minimum age for admission to work is consistent with the human development standard of the country. (*Barbados*)
- (iii) One basic minimum age is applicable to all sectors and occupations, without any exception. (*Guyana*)
- (iv) The minimum age for admission to employment is consistent with the compulsory age for completion of schooling. (*Barbados, Guyana*)

Compulsory Age for Completion of School

- (i) All children shall attend school up to the age of 16 years. (*Bahamas, Barbados*)

Light work

- (i) Light work is limited to four activities. (*Bahamas*)
- (ii) Light work is permissible for a period of five years only. (*Bahamas*)

Working Hours

- (i) No child attending school, whether of compulsory school age or not, shall work during school hours. (*Barbados, Bahamas*)
- (ii) No young person shall work from 6:00 p.m. to 7:00 a.m. (*Barbados*)
- (iii) A young person may work outside school hours under the following conditions –
 - (a) in a school day, for not more than three hours;
 - (b) in a school week, for not more than twenty-four hours;
 - (c) in a non-school day, for not more than eight hours;
 - (d) in a non-school week, for not more than forty hours. (*Bahamas*)

Artistic Performances

- (i) No child may be engaged in artistic performances unless the competent authority, after appropriate consultations with the representative organizations of workers and employers, gives a permit under terms and conditions that takes into consideration the welfare of the child. (*Bahamas*)

Hazardous Work

- (i) No young person under the age of 18 years shall be engaged in any type of employment or work, by its nature or the circumstances in which it is carried out, is likely to jeopardize their health, safety or moral development. (*All countries*)
- (ii) The Minister of Labour shall, after appropriate consultations with the representative organizations of workers and employers, determine the list of hazardous work and activities. (*All countries*)
- (iii) No person under the age of 18 years shall be employed in connection with the sale or supply of intoxicating liquor on any premises in respect of which a retail member's club or proprietary club licence is granted. (*Barbados*)
- (iv) No person under the age of 18 years shall be wholly or mainly employed in serving intoxicating liquor on any premises in respect of which a restaurant or hotel licence is granted. (*Bahamas*)

- (v) All employers shall maintain a register of workers under eighteen years. Any employer in an industrial undertaking or ship who refuses to maintain a register of young persons employed with them is guilty of an offence. (*All countries*)
- (vi) No young person may be admitted to employment except in occupations approved by Labour Officers as not being injurious to the moral or physical development of the young person. (*Belize*)
- (vii) No young person shall be required to work between the hours of 6:00 p.m. and 7:00 a.m. (*Barbados*)
- (viii) No young person shall be admitted to employment in a factory for a period exceeding 2 weeks unless after a medical examination he has been found fit for the work he is employed to do. (*Barbados*)

All forms of slavery or practices similar to slavery

- (i) The Constitution prohibits all forms of slavery or practices similar to slavery. (*All countries*)
- (ii) In addition to constitutional protection, there is the criminal offence of taking away a child under eighteen years from his parent or guardian: Any person who unlawfully, either by force or fraud takes away any child from his parent or guardian, commits an offence of child stealing. (*All countries*)
- (iii) Criminal offence of ill-treatment of child under eighteen years: Any person over the age of eighteen years, who has custody, charge or care of any child or young person, willfully assaults, ill-treats, neglects, abandons, or exposes the child or young person, or causes or procures the child or young person to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause the child or young person unnecessary suffering or injury to health commits an offence. (*All countries*)

Sale and trafficking of children

- (i) The Combating Trafficking in Persons Bill provides for the offence of trafficking in children. Clause 3(1) provides that whoever engages in or conspires to engage in or attempts to engage in, or assists another person to engage in or organizes or directs other persons to engage in trafficking in persons, shall:
 - (e) be sentenced to any term of years or life imprisonment;
 - (f) be subject to forfeiture of property; and
 - (g) be ordered to pay full restitution to the trafficked person. (*Guyana*)

Clause 3(2) provides that the recruitment, transportation, transfer, harbouring, or receipt of any child, or the giving of payments or benefits to obtain the consent of a person having control of a child for the purpose of exploitation shall constitute trafficking in persons. The purpose of the trafficking is not limited to sexual exploitation. It includes keeping a person in slavery or subjecting the person to practices similar to slavery; compelling a person to provide forced labour or services; keeping a person in servitude and engaging in any form of sexual exploitation such as pimping, pandering, procuring, profiting from prostitution, maintaining a brothel and child pornography. A child for the purposes of this bill is someone under the age of 18 years.

The Bill in Clause 9 provides that consent or past sexual behaviour of the victim is not a defence and is irrelevant to the prosecution. The offence of trafficking in persons is an extraditable one. In addition, assistance is provided in the Bill to allow non-national victims to remain in Guyana for the duration of the prosecution.

Special provision is made for the evidence of victims who are children. Clause 25 provides that special programmes should be developed to accommodate child witnesses including:

- (i) testimony of minor conducted outside court setting by video;
- (ii) all testimony and court proceedings take place with parent, legal guardian or foster parent present;
- (iii) whenever safe and possible, children should be reunited with family members either in country of origin or destination;
- (iv) special mental and physical medical care tailored to the child's needs;
- (v) child victims of trafficking should be guaranteed education.

Debt bondage, serfdom, forced and compulsory labour

- (i) Protection under both the Constitution and Employment Law Act against debt bondage, serfdom, forced and compulsory labour. (*All countries*)

Recruitment of children in armed conflict

- (i) Protection under the Defence Act against compulsory recruitment.
- (ii) Prohibition under the Defence Act of recruitment under the age of eighteen years. (*Bahamas*)

Use, procuring or offering a child for illicit activities

- (i) Protection for children under Dangerous Drug Act:

it shall be unlawful for any person to knowingly and intentionally-

- (a) employ, hire, use, persuade, entice or coerce a child or a young person to contravene any provision of this Act;
- (b) employ, hire, use, persuade, induce, entice or coerce a child or young person to assist in avoiding detection or apprehension for any offence under this Act;
- (c) receive a controlled drug from a child or young person in contravention of any provision of this Act. (*All countries*)

Measures to Prevent Child Labour

- (i) Where a parent of a child or guardian or a person having custody of a child by willful default or neglect fails to exercise due care over such child or conduces to the offence of taking a child into employment contrary to this Act, is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars or imprisonment for a term not exceeding three months or both. (*Trinidad and Tobago*)
- (ii) Education Act places a duty on School Attendance Officers to ensure that the parents are complying with their duty to secure education for their children. School Attendance Officers shall investigate the family circumstances and assist with counselling where necessary or make referrals to other social service agencies, which could facilitate the child's return to school. (*Barbados*)
- (iii) The Minister of Education shall prohibit or restrict the employment of children under the age of sixteen years who are registered at a state-maintained school where the child's employment is prejudicial to his health or otherwise renders him or her unfit to obtain the full benefit of an education. (*Bahamas*)

Enforcement

- (i) The labour inspectors have the power to enter, inspect and examine at all reasonable times, by day and night, any premises or place liable to inspection, when he has reasonable cause to believe to be liable to inspection. He may require the employer to provide documents and information to show that all laws are complied with. (*All countries*)
- (ii) Where, on information of a member of the Police Force, the Port Manager or the Chief Labour Officer, it appears to any Justice of the Peace that there is reasonable cause to believe that a child is employed in any place contrary to the Act, such Justice of the Peace may authorize any member of the Police Force to enter that place at any reasonable time within forty-eight hours and examine such place and any person therein concerning the employment of any child therein. Any person who assaults, obstructs or intimidates, uses indecent, abusive or insulting language; interferes with, hinders or refuses to admit; or by any gratuity,

- bribe, promise or other inducement prevents or attempts to prevent from entering such place and examining that person therein a member of the Police Force is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding twelve months or both. (*Barbados*)
- (iii) Restrictions on the disclosure of information obtained by the Labour Officer in an inspection are only limited to commercial or manufacturing secrets. (*Guyana*)

APPENDIX II

Questionnaire on Child Labour

A. POLICY

- (i) Is there a national policy on child labour? When was it established? Who was the lead agency advocating for the policy? Which agencies participated in its formulation? What were the concerns of the various agencies?
- (ii) What factors led to the policy? How important was the ILO Conventions 138 and 182 to the formulation of the policy? How important was the United Nations Convention on the Rights of the Child?
- (iii) Is there a minimum age for admission to employment? Does the minimum working age coincide with compulsory age for completion of education?
- (iv) Does the policy seek to raise progressively the minimum age for admission to employment to the standard set by the Convention No. 138 (age of completion of compulsory schooling not less than 15)?
- (v) Does the policy prohibit and seek to eliminate the worst forms of child labour? Does it set out clear stages for the elimination of the worst forms of child labour? Does it have short-term, medium-term and long-term goals?
- (vi) Does the policy define hazardous work (likely to jeopardize the health, safety or morals of young persons less than 18 years)? Does it identify vulnerable groups or types of work likely to harm the health, safety and morals of children? Does it take special account of the special situation of girls and other children at special risk? Was there consultation with social partners?
- (vii) Has any special authority been granted to allow persons from 16 years to do hazardous work under special protective measures? Under what conditions?
- (viii) Does the policy exclude or exempt any categories of employment or work from its application? Has there been consultation with the social partners in this regard?
- (ix) Has the policy addressed the issue of light work for students under the minimum working age? Has the State determined the activities in which such employment or work may be permitted?

- (x) Does the policy identify the competent authority(ies) for its implementation? Could you identify the agencies and their role in the implementation of the policy?
- (xi) What policies are in place for the prevention of child labour? What social and economic programmes are in place to remedy the causes of child labour?
- (xii) What policies are on place for the removal and rehabilitation of child workers?
- (xiii) Does the policy provide for a system of monitoring evaluation and review? If yes, what agencies are involved? What information and data are collected?
- (xiv) Does the policy provide for international cooperation and assistance?
- (xv) What policy reforms in education, labour market, social security, health, welfare and social development are required to eliminate and prevent child labour?

B. LEGISLATION

- (i) Is there legislation abolishing or regulating child labour and in particular the worst forms of child labour? If so, what laws?
- (ii) Is there a minimum age for all types of work? Does the legislation coincide with the completion age of compulsory education?
- (iii) Is there legislation on the minimum age for hazardous work?
- (iv) Does the legislation define hazardous occupations? If so, how?
- (v) To what extent has account being taken of Paragraphs 3 and 4 of ILO Recommendation 190 in determining such types of work?
- (vi) Are there any exemptions or restrictions from the application of laws on child labour? If so, please elaborate?
- (vii) Has legislative or other action taken to prohibit and eliminate:
 - (a) all forms of slavery and similar practices of children;
 - (b) the sale and trafficking of children;
 - (c) child debt bondage and serfdom;

- (d) forced or compulsory child labour;
 - (e) the forced recruitment of children for armed conflict;
 - (f) the use of children for prostitution;
 - (g) the use of children for child pornography;
 - (h) the use of children in illegal activities, especially drug production and trafficking?
- (viii) Does the law provide for penalties and other measures for violations of child labour provisions? Does the law ensure that sanctions are provided for all persons responsible for under-age employment (e.g. employers, parents, guardians etc.)?
- (ix) Are the sanctions considered to be sufficiently deterrent? If not, what reforms are considered? Are sanctions diversified between criminal, civil and administrative? Are sanctions diversified as a function of the seriousness of the offence, e.g. heavier sanctions for employment of children in hazardous than in non-hazardous work, heavier penalties for repeat offenders?
- (x) Does the law facilitate the access of children to legal remedies, e.g. by ensuring that children can join trade unions as soon as they are admitted to work?
- (xi) Does the law provide satisfactory conditions for the employment of young persons such as, fair remuneration and its protection; limitation of hours at work; prohibition of overtime; minimum rest periods; minimum annual holidays; satisfactory standards of health and safety; appropriate instruction and supervision; social security schemes; periodic medical examinations?
- (xii) Does the law subject children themselves to penalties for engaging in under-age work?
- (xiii) Does the legislation provide for a system of review of the national child labour situation, including the collection of detailed information and statistical data on the nature and extent of child labour?
- (xiv) Does the legislation establish a framework for the operation of labour inspection in child labour?
- (xv) What are the powers of the labour inspector or any other official to secure the enforcement of legal provisions relating to the employment of children and young person?

- (xvi) Does the legislation ensure that the mandate of the labour inspection services extends to all workplaces where child labour actually exists? If not, what restrictions apply?
- (xvii) Are labour inspectors required by law to supply information on child labour to any other agency involved in child protection?
- (xviii) Does the legislation provide for labour administration services to work in close cooperation with the services responsible for education, training, welfare and guidance of children and young persons?
- (xix) Does the legislation impose a duty upon labour inspection services or other national institutions to investigate reports of alleged violations? Does the law establish any special complaints procedures? Does the law provide for the protection from discrimination and reprisals of those who expose violations of child labour?
- (xx) Does the law provide for an effective system of birth registration?
- (xxi) Does the law require employers to keep and make available documents indicating the names and ages of all workers under 18 years of age?
- (xxii) What is the burden of proof with respect to the actual age of a child in the case of violations of child labour laws? Are there penal sanctions or other sanctions to enforce the laws on the worst forms of child labour?
- (xxiii) Does the law provide for free legal aid to be given to victims of child abuse? Does the law protect the privacy of victims of child labour?
- (xxiv) Is there legislation, which institute social and economic measures to alleviate poverty, such as minimum wages?
- (xxv) Does the law provide for social security and family welfare measures aimed at ensuring child maintenance, including payments to unemployed parents with children, low cost community health and education?
- (xxvi) Is there legislation, which provides for equal pay for work of equal value for young persons and adults?
- (xxvii) Is there legislation, which provides an obligation on employers to protect children from hazardous work?
- (xxviii) Does the law ensure that basic education is free for all and in particular for those who have been removed from situations of child labour?

- (xxix) Does the law provide for the determination and periodic revision of the types of hazardous child labour?
- (xxx) What laws prohibit the sale and trafficking of children; debt bondage and serfdom; forced and compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; or other forms or practices similar to slavery or forced or compulsory labour?
- (xxxii) What laws prohibit child prostitution and pornography?
- (xxxiii) What laws prohibit the use of children for other illicit purposes such as the production and trafficking of drugs; the trafficking of other goods; gambling operations; begging; stealing; other organized criminal activities

C. PROGRAMMES

- (i) Are there programmes of action to identify and denounce the worst forms of child labour? Has the State designed and started to implement programmes of action to eliminate the worst forms of child labour? Is it tackled on all fronts (economic, educational, social and cultural)? Have the social partners been consulted? Have the views of other stakeholders been taken into account? What NGOs are involved?
- (ii) What measures is the State taking to eliminate the worst forms of child labour? Are priorities identified? Are the vulnerable groups identified? Are the measures effective? Is the problem of child labour confronted in a holistic manner?
- (iii) Has the State identified the places and activities where the worst forms of child labour are likely to occur? Were the social partners consulted? Is this list of types of hazardous work likely to be revised periodically?
- (iv) Are effective and time-bound measures being taken to:
 - i. prevent the engagement of children in the worst forms of child labour;
 - ii. provide direct assistance to remove children from the worst forms of child labour;
 - iii. provide direct assistance for the rehabilitation and social integration of the children concerned;

- iv. ensure access to free basic education and to vocational training for such children;
 - v. identify and reach out to children at special risk;
 - vi. take into account the special needs of girls?
- (v) What programmes are there for sensitizing public opinion and mobilizing public support on child labour?
 - (vi) What awareness-raising programmes on child labour are targeted to labour inspectors, police officers, employers, trade unions, teachers and social workers?
 - (vii) What socio-economic programmes are intended to remedy the causes of child labour;
 - (viii) What programmes are in place for social security and family welfare of children at risk?
 - (ix) Are adequate financial and human resources provided to eliminate and prevent child labour? What more could be done?

D. ADMINISTRATION AND ENFORCEMENT

- (i) Has the State designated the competent authority responsible for the implementation of the Convention?
- (ii) Has a national mechanism been established to monitor the implementation of national provisions for the prohibition and elimination of the worst forms of legislation?
- (iii) What are the institutions that administer the laws, policies and programmes relating to child labour? Are their roles and authority clearly defined? Are the institutions adequately resourced to implement the programmes?
- (iv) Are labour inspectors trained to detect abuses in the employment or work of children and young people and to correct such abuses? Do they work in close cooperation with the services responsible for the education, training, welfare and guidance of children and young persons?
- (v) Is special attention paid to the enforcement of provisions concerning employment in hazardous types of employment or work and to the prevention of the employment of children and young persons during school hours?

- (vi) Is there a balance between advisory, enforcement and supervisory functions?
- (vii) Are detailed information and statistical data on the nature and extent of child labour being compiled and kept up to date to serve as a basis for determining priorities for national action? Are the data disaggregated by sex, age group, occupation, branch of economic activity, status in employment, school attendance and geographical location. Is there an effective system of birth registration?
- (viii) Is the information at (v) communicated to the ILO on a regular basis?
- (ix) Has the country submitted any declaration to the ILO on the minimum working age?
- (x) What educational/advocacy programmes are implemented for child labour?
- (xi) What alliance has been established to tackle child labour? Who are involved? What training is provided to these organizations to deal with child abuse?
- (xii) What policies are being promoted by employers' and trade unions' organizations to address child labour? What programmes of action are there to sensitize parents to the problems of child labour?
- (xiii) What enforcement devices are available? Are there penal or other sanctions to enforce child labour laws? What are the penalties? Are the sanctions being applied?
- (xiv) Are employers required to keep a register of employees under the age of 18 for inspection by labour inspectors? How do labour inspectors monitor children 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?
- (xv) Has there been any landmark court decision on child labour?
- (xvi) Is the State cooperating with other countries to give effect to the provisions of the Convention?
- (xvii) Has the State provided its status report on child labour to the ILO?

- (xviii) Does the Annual Labour Administration Report give information on child labour?