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Child Labour and Legislative Framework

Philip A. Nath • Pankaj Dimri • Helen R. Sekar



V.V. Giri National Labour Institute

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Contents

	1. Introduction	
	2. India	1-7
	3. Pakistan	8-9
	4. Sri- Lanka	10
	5. Bangladesh	11-13
	6. Nepal	14-15
	7. Philippines	16-17
	8. Afghanistan	18
	9. Indonesia	19-20
	10. Thailand	21
	11. Cambodia	22
	12. Malaysia	23
	13. References	24-26



Foreword

Employment of children amounts to denial of rights of future generation and depriving children of their opportunities to growth. Moreover, working at tender age in hazardous conditions exposes children to various miseries and hampers their mental, physical, moral and psychological development. The challenge of preventing and eliminating child labour requires far greater commitment than most other developmental activities. Legislation is one of the effective weapons to end Child labour.

Several efforts are being made in this direction by different countries. South Asian National Governments have a history of child labour legislation and have traversed a long path in protecting children from labour exploitation. Some of the countries in South Asia have common constitutional and legal provisions concerning child labour such as the constitutional guarantee of children's right to education, total prohibition of children in certain forms of labour by the constitution, prescribing minimum age for employment, prescribing working hours and ensuring the health and safety of children in regulated work, not-extending enforcement to children working in family farms and as a part of the family, prohibiting taking work from children at night, and so on.

Child Labour and Legislative Framework is a compilation and collection of useful information on significant aspects of legislative initiatives aimed at prevention and elimination of child labour. The idea is to make available basic information on child labour at one place, which would be useful for all those who are working towards combating child labour. This document has been prepared as a part of the project 'Establishment of National Knowledge Centre on Child Labour at the V.V. Giri National Labour Institute' a component of ILO-Convergence Child Labour Project.

I congratulate Dr. Helen R. Sekar and her team for painstakingly compiling this work. I appreciate the comments given by the tripartite representatives from some of the South Asian countries and for sharing documents from their respective countries. I hope the readers would find this publication a useful reference material for training and awareness-generation programmes and for initiating various activities towards combating child labour.

V.P. Yajurvedi
Director General



India

India has all along followed a proactive policy in addressing the problem of child labour and has always stood for constitutional, statutory and developmental measures that are required to eliminate child labour. The Constitution of India has relevant provisions to secure compulsory universal primary education. Labour Commissions and Committees have gone into the problems of child labour and made extensive recommendations. India's judiciary, right up to the apex level, has demonstrated profoundly empathetic responses against the practice of child labour. National policy on child labour and a comprehensive central legislation on child labour are the two underpinnings of the existing efforts to address the issue of child labour.

→ Constitutional Provisions

- *Article 23* Prohibits traffic in human beings and forced labour. Traffic in human beings and 'begar' and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
- *Article 24* Prohibits the employment of children in factories. No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment¹.
- *Article 39 (e) and (f)* lays down the Directive Principles of State Policy;

The State shall, in particular, direct its policy, securing:

- (e) That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter a vocation unsuited to their age or strength.
- (f) That children are given opportunity and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

→ Legislations

Mines Act, 1952

The Minimum age of a person to be employed in mine is eighteen years as specified under sub-section

¹ <http://labour.nic.in/upload/uploadfiles/files/ActsandRules/SectionoftheSociety/TheChildLabourProhibition%26RegulationAct1986.pdf>



India

(1) of Section 40 of the Mines Act, 1952. Section 45 of Mines Act, 1952 prohibits presence of any person below 18 years of age in any part of the mine above ground where any operation connected with or incidental to any mining operation is being carried on.

Factories Act, 1948

Prohibits the employment of children who have not completed 14 years of age.

The Merchant Shipping Act, 1958

Prohibits children less than 14 years of age to or carried to sea work in any capacity in any ship, subject to certain exceptions.

The Motor Transporters Act, 1961

Prohibits the employment of children less than 14 years of age in any motor transport undertaking.

The Child Labour (Prohibition and Regulation) Act, 1986

- Defines child as a person who has not completed 14 years of age
- Prohibits the employment of children below 14 years in specified occupations and processes
- Lays down a procedure to make additions to the schedule of prohibited occupations and processes
- Regulates the working conditions of the children in occupations where they are not prohibited from working
- Lays down penalties of imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both and in case of repetition of offence he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years.²

² <http://labour.nic.in/upload/uploadfiles/files/ActsandRules/SectionoftheSociety/TheChildLabourProhibition%26RegulationAct1986.pdf>



Prohibited Occupations and Processes as per schedule given in Section 3 of the Act:

**Part A
Occupations (Non Industrial Activity)**

1. Transport of passengers, goods or mails by railway
2. Cinder picking, cleaning of an ash pit or building operations in railway premises
3. Work in a catering establishment
4. Work relating to construction of a railway station
5. A port authority within the limits of any port
6. Work relating to selling of crackers and fireworks in shops with temporary license
7. Abattoir/slaughter houses
8. Automobile workshops and garages
9. Foundries
10. Handling of toxic or inflammable substances
11. Handloom and power loom industry
12. Mines and collieries
13. Plastic units and fiber glass workshops
14. Employment of Children as domestic workers or servants
15. Employment of Children in *dhabas* (Road- side eateries), restaurants, hotels, motels, tea shops, resorts, spas or other recreational centers.
16. Diving
17. Caring of Elephants
18. Children Working in Circus



Part B Processes (Industrial Activity)

1. *Bidi*-making
2. Carpet-weaving, including preparatory and incidental process thereof
3. Cement manufacture, including bagging of cement
4. Cloth printing, dyeing and weaving including processes preparatory and incidental thereto
5. Manufacture of matches, explosives and fireworks
6. Mica-cutting and splitting
7. Shellac manufacture
8. Soap manufacture
9. Tanning
10. Wool-cleaning
11. Building and construction industry
12. Manufacture of slate pencils (including packing)
13. Manufacture of products from agate
14. Manufacturing processes using toxic metals and substances such as lead, mercury, manganese, chromium, cadmium, benzene, pesticides and asbestos
15. 'Hazardous processes' as defined in Section 2cd and dangerous operations' as notified in rules made under Section 87 of the Factories Act, 1948 (63 of 1948)
16. Printing as defined in Section 2 (k) (iv) of the Factories Act, 1948 (63 of 1948)
17. Cashew and cashew nut descaling and processing
18. Soldering processes in electronic industries
19. *Aggarbatti* manufacturing
20. Automobile repairs and maintenance, including processes incidental there to namely welding, lathe work, dent beating and painting
21. Brick Kilns and Roof tiles units
22. Cotton ginning and processing and production of hosiery goods.



23. Detergent manufacturing
24. Fabrication workshops (ferrous and non- ferrous)
25. Gem cutting and polishing
26. Handling of chromites and manganese ores
27. Jute textile manufacture and coir making
28. Lime kilns and manufacture of lime
29. Lock making
30. Manufacturing processes having exposure to lead such as primary and secondary of zinc silicate, polyvinyl chloride mixing (by hand) of crystal glass mass, sanding or scrapping of burning of lead in enameling workshops, plumbing, cable making, wire patenting, lead casting, type founding in printing shops, store type-setting, assembling of cars, shot making and lead glass blowing
31. Manufacture of cement pipes, cement products and other related work
32. Manufacturing of glass, glass ware including bangles, florescent tubes, bulbs and other similar glass products
33. Manufacture of dyes and dye stuff
34. Manufacture or handling of pesticides and insecticides
35. Manufacturing or processing and handling of corrosive and toxic substances, metal cleaning and photo engraving and soldering processes in electronic industry
36. Manufacturing of burning coal and coal briquettes
37. Manufacturing of sports goods involving exposure to synthetic materials, chemicals and leather
38. Moulding and processing of fiberglass and plastic.
39. Oil expelling and refinery
40. Paper making
41. Potteries and ceramic industry
42. Polishing, moulding, cutting, welding and manufacture of brass goods in all forms
43. Processes in agriculture where tractors, threshing and harvesting machines are used and chaff-cutting
44. Saw mill-all processes



India

45. Sericulture processing
46. Skinning, dyeing and processes for manufacturing of leather and leather products
47. Stone breaking and stone crushing
48. Tobacco processing, including manufacturing of tobacco, tobacco paste and handling of tobacco in any form
49. Tyre making, repairing, re-treading and graphite beneficiation
50. Utensils making, polishing and metal buffing
51. 'Zari' making (all processes)
52. Electroplating
53. Graphite powdering and incidental processing
54. Grinding and glazing of metals
55. Diamond cutting and polishing
56. Extraction of slate from mines
57. Rag picking and scavenging
58. Processes involving exposure to excessive heat (e.g. Working near furnace) and cold
59. Mechanized fishing
60. Food processing
61. Beverage Industry
62. Timber handling and loading
63. Mechanical lumbering
64. Warehousing
65. Processes involving exposure to free silica such as slate, pencil industry, stone grinding, slate stone mining, stone, quarries, agate industry



SUPREME COURT DIRECTIONS ON CHILD LABOR

The Supreme Court of India, in its judgment dated 10th December, 1996 in Writ Petition (Civil) Number 465/1986, has given certain directions regarding the manner in which children working in the hazardous occupations are to be withdrawn from work and rehabilitated, and the manner in which the working conditions of children working in non-hazardous occupations are to be regulated and improved. The judgment of the Supreme Court envisages:

- (a) Simultaneous action in all districts of the country;
- (b) Survey for identification of working children;
- (c) Withdrawal of children working in hazardous industries and ensuring their education in appropriate institutions;
- (d) Contribution of Rs.20,000 per child to be paid by the offending employers of children to welfare fund to be established for this purpose;
- (e) Employment to one adult member of the family of the child so withdrawn from work, and if that is not possible a contribution of Rs.5000 to the welfare fund to be made by the State Government;
- (f) Financial assistance to the families of the children so withdrawn to be paid out of the interest earnings on the corpus of Rs.20,000/25,000 deposited in the welfare fund as long as the child is actually sent to the schools;
- (g) Regulating hours of work for children working in non-hazardous occupations so that their working hours do not exceed six hours per day and education for at least two hours is ensured. The entire expenditure on education is to be borne by the concerned employer;
- (h) Planning and preparedness on the part of Central and State Governments in terms of strengthening of the existing administrative/regulatory/enforcement framework (covering cost of additional manpower, training, mobility, computerization etc.) implying additional requirement of funds.³

³ <http://www.legalindia.in/progressive-abolition-of-child-labour>



Pakistan

→ Constitutional Provisions

- Article 11 (1) of the Constitution of Pakistan forbids slavery and states that no law shall permit or facilitate its introduction in to Pakistan in any form.
- Article 11 (2) prohibits all forms of forced labour and traffic in human beings
- Article 11 (3) prohibits employment of children below the age of 14 years in any factory or mine or any other hazardous employment.

→ Legislations

- Mines Act 1923
- The Merchant Shipping Act 1923
- The Factories Act 1934
- The Shop and Establishment Ordinance 1969
- The Employment of Children Act 1938
- The Employment of Children Act 1991

All the Acts mentioned above prohibit the employment of children below specified age limit. *The Employment of Children's Act 1991* is the latest statute in the area of child employment and was enacted particularly in the context of enforcing the standards prescribed by the ILO Conventions 138 and 182 on Child Labour. It prohibits children below 14 years of age to be employed in certain occupations and processes. No child is allowed to work over time or during the night. The Prevention and Control of Human Trafficking and Smuggling Ordinance prohibits the trafficking of children internationally for exploitive activities and carries a prison term of 7 to 14 years and a fine. The Prevention and Control of Human Trafficking Ordinance, 2002.

The Constitution prescribes 14 years of age limit for the purpose of employment in a factory or mine or any other hazardous occupation. The limit has been followed by *Mines Act*, *Factories Act*, *The Merchant Shipping Act*, *The Shops and Establishment Ordinance* and the *Employment of Children's Act 1991*. The Mines Act originally fixed the age limit as 15 years; however through an amendment to it by the *Employment of Children's Act 1991*, it was again reduced to 14 years.

→ Occupations and Processes Prohibited

Earlier law (*Employment of Children Act 1938*) prohibited the employment of children in following:



- *Bidi* making
- Carpet making
- Cement manufacturing (including bagging of cement)
- Cloth dyeing, printing and weaving
- Manufacturing of matches, explosives and fire works
- Mica cutting and splitting
- Shellac manufacturing
- Soap manufacture
- Tanning
- Wood cleaning

The 1991 law added the following occupations:

- Shoe making
- Leather
- Power looms
- Fishing
- Glass
- Garments
- Precious stones, metals and wood handicraft
- Furniture and paper⁴

⁴ <http://aghscru.org.pk/pdf/Employment%20of%20Children%20Act.pdf>



Sri Lanka

→ Constitutional Provisions

Under the Constitution of Sri Lanka, 1978, Article 27 (13) Directive Principles of State Policy and Fundamental Rights, the State pledges to “promote with special care the interest of children and youth so as to ensure their full development, physical, mental, religious and social, and to protect them from exploitation and discrimination.”

→ Legislations

The minimum age of employment in most occupations is 14 years. *Gazette No. 1116/5* sets the minimum age for employment in domestic work at 14 years.

The Shop and Office Employees Act of 1954 prohibits the employment of children below 14 years in shops and offices

The Employment of Women, Young Persons and Children’s Act (No. 47), 1956 prohibits work by children that may be injurious, work by children during school hours, and work by children under 14 years in general and under 18 years in industrial settings at night. Children below 14 years are prohibited to work in any family industrial operations. Children below 15 years are no longer allowed to work at sea on family owned vessels.

The minimum age of employment of children was raised from 12 to 14 years in December 1999 by an amendment to the Employment of Women, Young Persons and Children’s Act (No. 47) 1956.

In 2003 the Act was amended to allow children below 14 years old to work only in part time family agriculture work or participate in technical training

Forced labour is prohibited under the Abolition of Slavery Ordinance of 1844. The penal code contains provisions prohibiting sexual violations against children, particularly with regard to pornography, child prostitution, and the trafficking of children. The minimum age for recruitment in Armed Forces is 18 years.

National Child Protection Authority Law (1998) established under the National Child Protection Authority. Its major functions include recommending legal, administrative or other measures for effective implementation of the national policy for the prevention of child abuse, as well as monitoring the implementation of laws relating to all forms of child abuse. It also mandated to recommend measures to address the protection of children affected by armed conflict.

⁵ Available at <http://www.ilo.org/ipecinfo/product/viewProduct.do>



Bangladesh

➔ Constitutional Provisions

Article 23 and 24 prohibits the employment of children in factories, mines or in any hazardous work. The Constitution has guaranteed the Fundamental Rights of Citizens in Article 27, 28, 29, 31, 34, 37, 38, 39, 40 and 41. Particularly, Article 34 mentioned about Prohibition of Forced Labour: (i) All Forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

➔ Legislations

- Mines Act 1923
- The Children (Pledging of Labour Act) of 1933
- Employment of Children's Act 1938
- Bengal Vagrancy Act 1943
- Tea Plantation Labour Ordinance 1962
- Shops and Establishments Act 1965
- Factories Act 1965
- Children's Act 1974 National Children Policy 1994
- Labour Act 2006
- Birth and Death Registration Act 2009
- National Child Labour Elimination Policy 2010
- National Action Plan for Children'2005-2010

There are number of statues which stipulate different minimum ages at which children can legally work in certain sectors:

Act	Minimum age
Mines Act 1923	15 years (with medical certificate of fitness)
Railway and Ports (Employment of Children) Act 1938	15 years
Shops and Establishments Act 1965	12 years
Factories Act 1965	14 years with medical certificate of fitness
Employment of Children Act 1938	12 years
Tea Plantation Labour Ordinance 1962	15 years
Children's Act 1974	15 years



Mines Act 1923 states that children below 15 years cannot be employed in mines. The minimum age of employment stated is 15 years with medical certificate of fitness.

The Children (Pledging of Labour Act 1933) regards a person below the age of 15 years as being a child.

The Bengal Vagrancy Act 1943 considers a person below the age of 14 years as a child.

The Employment of Children's Act 1938 prohibits children less than 12 years from working in workshops where any number of listed processes is carried on

- Weaving
- Tanning
- Manufacturing of *Bidi*
- Manufacturing of soaps
- Carpet making
- Manufacture of matches, explosives and fire works

Here exemption is made in case of 'family-owned' and 'family-run' shops not using outside hired labour.

The shop and Establishment Act 1965 prohibits the employment of children below the age of 12 years in shops or commercial establishment.

The Factories Act 1965 The Act defines child as a person who has not completed 16 years of age. It prohibits employment of children below 14 years in any factory.

The Act Prevents children under 18 years from working on dangerous machines without proper instructions about the dangers and necessary precautions, in addition to training or supervision.

All forms of forced labour are prohibited under the Constitution. Unlawful compulsory labour is also an offence under the Penal Code 1860.

This law also stipulates that young workers (children and adolescents) are only allowed to work a maximum 5 hours a day and only between the hours of 7 a.m. and 7 p. m.

The penalty for violation of this Act (Article 44(1)) is a fine up to 1000 *Taka*



The Children's Act 1974 states that a child is a person below the age of 16 years. According to the Act children under the age of 15 years will not be employed or permitted to work in any occupation connected with :

- Transport of passenger, goods, or mails by railway
- Handling of goods within the limits of any port

The Act bars children below 12 years of age from working in workshops. It does not forbid any child from working as an apprentice or from vocational training. The Act implies that it does not restrict child employment in agriculture activity or any light work in informal sector.⁶

⁶ <http://www.ilo.org/legacy/english/regions/asro/newdelhi/ipec/responses/bangladesh/national.htm>



Nepal

The Nepal Labour Force Survey (NLFS) 2008 estimates the child population between 5 and 17 years of age to be 7.77 million, which is about 33 per cent of the total population in the country. Children constitute an integral part of the workforce engaged in both the formal and the informal sector. This report, based on the data obtained during NLFS 2008, estimates that about 3.14 million children, i.e. about 40.4 per cent of the child population in the 5 to 17 year age group, may be classified as children in employment (commonly called working children). Among these working children, the report further estimates that 1.60 million children, or almost 51 per cent of all working children, fall into the category of child labour. Within the child labour category, 0.62 million children have been identified as being engaged in what is called hazardous work*.

→ Constitutional Provisions

- Interim Constitution 2007 guarantees Right to Child as Fundamental Right under Article 22

→ Legislations

- **Children's Rights and Welfare Act 1992** defines child as a person who has not reached the age of 16 and states that a child who has not attained the age of 14 shall not be employed in any work as a labourer. The Act applies to children working in urban industries and provide for labour inspectors in each district.
- **The Labour Act, 1992, and Labour Rules, 1993**, contains specific provisions for the prohibition of employment of children below 14 years and prohibits admission to hazardous work for minors (aged between 14 and 18 years).
- **The Child Labour (Prohibition and Regulation) Act, 1999**, followed Nepal's ratification of the ILO Minimum Age Convention (NO. 138), and has made important amendments in the Labour Act 1992. The Child Labour Act enlists specific occupations as hazardous work and prohibits the use of children below 16 years of age in such activities.
- **Kamaiya Labour Prohibition Act, 2001**, Prohibits bonded labour; frees bonded laborers and extinguishes debt flowing from such arrangements. As a result of the Kamaiya Act, many bonded girls in domestic servitude have been withdrawn and reintegrated with their families.
- **Self-Governance Act, 1997**, makes important provisions for decentralized action for

*Nepal Labour Force Survey (NLFS) report 2008 available at http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kathmandu/documents/publication/wcms_182988.pdf



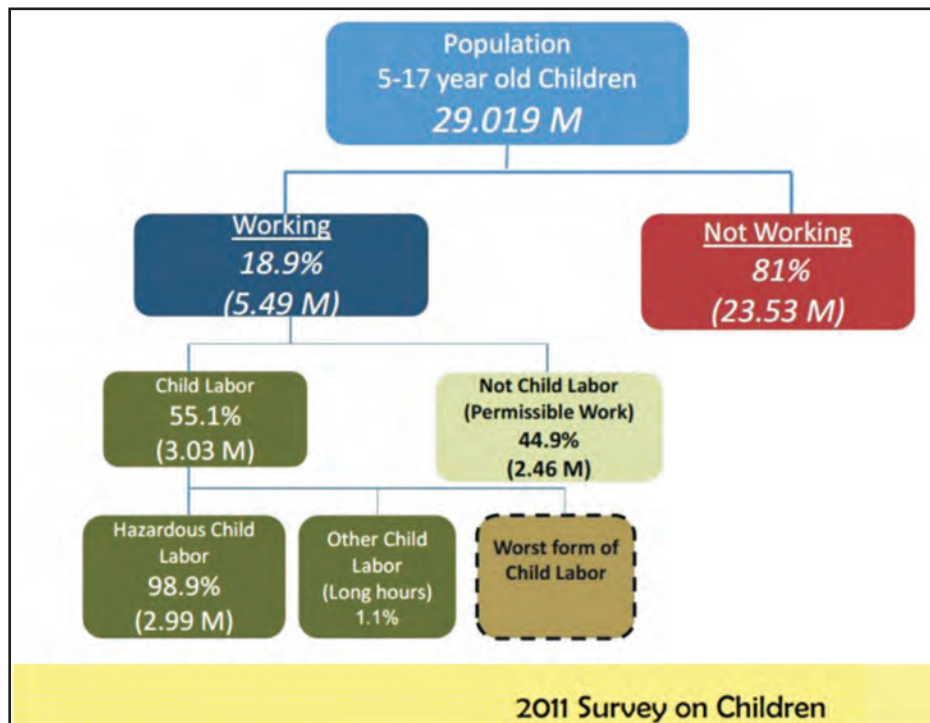
children and against child labour. For instance, much of the power for protecting girl children has devolved on the village Development Committees (VDCs), which are obliged to give priority to development projects that directly benefits children.**

** <http://www.ilo.org/legacy/english/regions/asro/newdelhi/ipec/responses/nepal/national.htm>



Philippines

Child Labour is recognized as a serious problem in the Philippines. According to the 2011 Survey on Children in the Philippines revealed that of the 29 million Filipino children, aged 5-17 years old, there were roughly about 5.5 million working children, of which almost 3 million were in hazardous child labour (Figure⁹). The National Statistics Office conducted this survey with the support of the International Labour Organization and the US Department of Labor.



➔ Constitutional Provisions

Under the Constitution of the Philippines, the State values the dignity of every human being and guarantees full respect for human rights. In particular, the government recognizes the need to protect children from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development. Article II, Section 13 of the 1987 Constitution states:

⁹ http://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-manila/documents/meetingdocument/wcms_184097.pdf



The State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.

Section 2(2) The State shall: Establish and maintain a system of free public education in the elementary and high school levels. Without limiting the natural rights of parents to rear their children, elementary education is compulsory for all children of school age;

➔ Legislations

Special Protection of Children against Child Abuse, Exploitation and Discrimination Act

- **Section 12** The Act under states “Children below 15 years of age may be employed: provided, that the following minimum requirements are present;
 - a) The employer shall secure for the child a work permit from the department of Labour and Employment;
 - b) The employer shall secure the protection, health, safety and morals of the child;
 - c) The employer shall institute measures to prevent exploitation or discrimination taking into account the system and level of remuneration, and the duration and arrangement of working time; and
 - d) The employer shall formulate and implement a continuous programme for training and skill acquisition of child.
- **Section 13 Non-Formal Education for Working Children** The Department of Education, Culture and Sports shall promulgate a course design under its non-formal education programme aimed at promoting the intellectual, moral and vocational efficiency of working children who have not undergone or finished secondary education.
- **Section 14 Prohibition of Employment of Children in Certain Advertisements.** No person shall employ child models in all commercials or advertisements promoting alcoholic beverages, intoxicating drinks, tobacco, and its by products, and violence.

Any person who shall violate any provision of this Act shall suffer a fine of not less than One Thousands pesos (P1,000) but not more than Ten Thousands (P10,000) or imprisonment of not less than three (3) months but not more than three years (3), or both at the discretion of court: Provided, that in case of repeated violations of the provisions, the offender license to operate shall be revoked.

¹⁰<http://www.pctc.gov.ph/initiatv/RA7658.htm>



Afghanistan

➔ Constitutional Provisions

Article 49:“Forced labour is forbidden. Active participation, in times of war, calamity, and other situations threatening public life and welfare is one of the primary duties of every Afghan. Children shall not be subjected to forced labour.”

➔ Legislations

Labour Law 1999 (Article 15: Employment and Labour Contract) It states that in special situation the child who has not completed the age of 14 can be appointed as a servant. If child has completed the age of 13, the child can be admitted as a learner and can be assigned for work. Independent jobs cannot be delivered to the child.

The Labour Code prohibits children under the age of 15 from working more than 30 hours a week. *The new Constitution of Afghanistan Article 49* prohibits forced labour, including that of children.

In May 2003 the President issued a presidential decree prohibiting the recruitment of children and young people under the age of 22 years in Afghan National Army.¹¹

¹¹ <http://www.ilo.org/legacy/english/regions/asro/newdelhi/ipec/responses/afghanistan/national.htm>



Indonesia

According to the UNICEFs *'Understanding children's work and youth employment outcomes in Indonesia report¹²*, June 2012, of over 2.3 million children aged 7-14 years, almost seven percent of this age group, were in employment in 2009. Almost all of these children were also in illegal child labour in accordance with Indonesian legislation and as many as half were exposed to hazardous conditions in the workplace. Data shows an overall decline in children's employment, from 4.9 percent to 3.7 percent, for the narrower, 10-14 year-old, child population during the period from 2007 to 2010.

There is little conclusive data on the extent of child labour in export industries. Child Labour is found in the garment industry and the wood and rattan furniture industries. However, the extent of child labour in these industries and their direct link to export is not documented and more research is needed.

➔ Constitutional Provisions

- *Article 34*: The poor and destitute children shall be cared for by the State
- *Article 31*:
 1. Every citizen has the right to education.
 2. The government shall establish and conduct a national educational system which shall be regulated by law.

➔ Legislations

Minister of Manpower and Transmigration Decree No.Kep.235/MEN/2003 concerning Jobs that Jeopardize the Health, Safety and Morals of Children: Children, defined as any child under the age of 18 years, are prohibited from being employed in a job that jeopardizes their health, safety or morals and employers are prohibited from employing children to work overtime. The types of jobs referred to are included in the Annex to the Decree and include work with machines, engines, heavy duty equipment; jobs where there are physical hazards, chemical hazards, biological hazards or that by nature are hazardous. Jobs that harm the moral of children include jobs in bars, discotheques,

¹²Available at: http://ucw-project.org/attachment/Child_labour_Youth_employment_Indonesia20120625_162630.pdf



Indonesia

etc. places that may be used for prostitution, promotion of alcohol, drugs to arouse sexual desire or cigarettes.

The Ministry of Man Power Regulation, No. PERR-01/MEN/1987* legalizes the employment of children under the age of 14 years who must work to contribute to the income of the family. It requires parental consent, prohibits dangerous or difficult work, limits work to four hours daily, and requires employ to report the number of children working. The regulation does not set a minimum age of employment for children.

* http://www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_country=IDN&p_classification=02&p_origin=SUBJECT



Thailand

→ Constitutional Provisions

- Section 35 “Forced labor shall not be imposed except by virtue of the law specifically enacted for the purpose of averting imminent public calamity or by virtue of the law which provides for its imposition during the time when the country is in a state of armed conflict or war, or when a state of emergency or martial law is declared.”
- Section 68 of the Directive Principles of the State Policy: The State should support and promote citizens development, especially children and youth, so that they may be physically, mentally, intellectually, morality and ethically sound.

→ Legislations

- **Labour Protection Act of 1998** sets the minimum age of employment at 15 years. Employers are required to notify the labour inspectors if children under the age of 18 are hired, and the law permits children ages 15 to 18 to work only between the hours of 4 pm and 10 pm with written permission from the Director General or a person assigned by the Director-General. Children under 18 may not be employed in hazardous work, which is defined by the law to include any work involving hazardous chemicals, harmful temperatures or noise levels, exposure to toxics micro organisms, the operation of heavy equipments, and work underground or underwater.¹⁴
- **The Prostitution Prevention and Suppression Act of 1996** prohibits all forms of prostitution and provides specific penalties for cases involving children under 18 years of age. Fines and terms of imprisonment under the law are based on the age of the child involved, with more severe terms established for prostitution involving children under the age of 16.¹⁵
- **The Criminal Procedure Amendment Act of 1999** provides protection for child victims in the course of testifying in cases of sexual exploitation

The maximum penalty for violation of the child labour section of the Labour Protection Act is one year of imprisonment and fine of 200, 000 bath (USD 4,783)

¹⁴ <http://www.refworld.org/publisher,USDOL,,THA,48d748b141,0.html>

¹⁵ <http://www.refworld.org/publisher,USDOL,,THA,48d748b141,0.html>



Cambodia

→ Constitutional Provisions

- Article 31- The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of human Rights, the covenants and conventions related to human rights, women's and children's rights.
- Article 38- The law guarantees shall be no physical abuse against any individual
- Article 48- The State shall protect the rights of the children as stipulated in the Convention on Children, particular, the right to life, education, protection during wartime, and from economic or sexual exploitation.
- The State shall protect children from acts that are injurious to their education opportunities, health and welfare.

→ Legislations

Cambodian Labour Law (March 13, 1997): The law contains various provisions relating to child labour.

The minimum work age is 15, though children between the ages of 12 to 15 may do light work that is not hazardous and that does not affect regular school attendance or participation in other training programmes. List of working children below the age of 18 must be kept by the employer and submitted to the labour inspector. These children must have their guardian's consent in order to work. However, labour law applies only to the formal sector. The labour law prohibits all forms of forced or compulsory labour, including agriculture and domestic work.

Employers who violate these laws may be fined 31 to 60 days of the base daily wage. In many cases, however, the precise age of young workers is difficult to determine because registering births in Cambodia is not a wide spread practice. Under age workers are known to secure employment by providing false identification papers or offering bribes to recruiters.¹⁶

¹⁶ <http://www.dol.gov/ilab/media/reports/iclp/Advancing1/html/cambodia.htm>



Malaysia

➔ Constitutional Provisions

Part-II, Article 6

- (1) No person shall be held in slavery.
- (2) All forms of forced labour are prohibited, but Parliament may by law provide for compulsory service for national purposes

➔ Legislations

Children and Young Persons Employment Act, 1966: As per the Act the minimum age for admission to employment other than employment in any undertaking carried out by their family is 15 years. Young persons of 15 and 16 years of age are allowed to perform employment suitable to their capacity including work as a domestic servant, employment in any office, shop, factory, or store, employment in an industrial undertaking and employment on any vessel under the personal cohere of their parent or guardian and such employment is not injurious to life, limb, health or morals of the child. No restrictions apply for young people above 16.

According to Section 5 (1)

No child engaged in any employment shall be required or permitted—

- a) To work between the hours of 8 o'clock in the evening and 7 o'clock in the morning;
- b) To work for more than three consecutive hours without a period of rest of at least thirty minutes;
- c) To work for more than six hours in a day or, if the child is attending school, for a period which together with the time he spends attending school, exceeds seven hours; or
- d) To commence work on any day without having had a period of not less than fourteen consecutive hours free from work.

Section 2(2)a of the Act allows persons under 15 years to be employed in light work which is to their capacity, in any undertaking carried out by their family. However, no minimum age is specified for light work and no clear definitions are given for light work.¹⁷

17 <http://www.ilo.org/dyn/travail/docs/1529/Children%20and%20Young%20Persons%20Employment%20Act%201966.pdf>



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“The child is a soul with a being, a nature and capacities of its own, who must be helped to find them, to grow into their maturity, into a fullness of physical and vital energy and the utmost breadth, depth and height of its emotional, intellectual and spiritual being; otherwise there cannot be a healthy growth of the nation”.

Justice P.N. Bhagwati
(Former Chief Justice of India)



V.V. Giri National Labour Institute