

Jamaica Child Labor Manual and Rapid Reference Cards

Released October 2018



Prepared by
Lawyers Without Borders

In partnership with Winrock International under the
United States Department of Labor funded project,
CLEAR II

Funding is provided by the United States Department of Labor under cooperative agreement number IL-26260-14K. The CLEAR II project is led by Winrock International. This material does not necessarily reflect the views or policies of the United

Interviewing and Report Writing Rapid Reference Card™ · Jamaica

REPORT WRITING GUIDELINES

Focus on the Five W's: Who, What, Where, When, and Why

Contact Information: Note contact information for victims, suspects, and witnesses

Include All Results: Write down all results of your investigation (fingernails, footprints, etc.)

Keep Writing Simple: Try to start sentences with a person, place, or thing; keep it simple

Use Detailed Description: Thoroughly describe events (e.g. chain of custody)

Use Active Voice and Avoid Slang

Avoid Generalizations and Hunches

Check Your Spelling and Grammar

REPORT WRITING CHECKLIST

Technicalities

- Reporting agency and/or district
- Names of officers
- Signature of reporting and supervising officers
- Case number, case status, and related cases

Incident Details

- Location and time of arrival and incident
- Immediate statements of central parties
- Number of people arrested
- Description of incident site and rough map

Type of Crime & Common Details

- Any sick or injured people
- Alarm sounded
- Forced entry

Interviews of Parties

- Full name, address, and signature of all witnesses interviewed
- Relationship of parties involved in incident

REPORT WRITING CHECKLIST (CONTINUED)

Interviews of Parties (Continued)

- Gender, ethnicity, physical appearance, clothing, and other identifying characteristics
- Accounts of events
- Injuries, including those not visible
- Emotional state and demeanor
- Alcohol or drug impairment

Other Essential Information

- Vehicles involved
- Evidence collected: audio, photographic, investigation results
- Children present?
- Medical help offered or refused
- Summary of actions and reasons
- Existence of orders/records: protection, probation, warrants, prior convictions
- Victim responses to questions
- Narrative of incidents
- Full name, age, and address of people at site

WITNESS INTERVIEWS

- **Contact Information:** Contact details should be noted only in the 'List of Witnesses'; Name, Address, Phone number(s)
- **Take Notes:** Date, time and location
- **Ask Permission:** Ask the witness for permission to record the statement. If you can't record, take simultaneous notes of what is said
- **Questioning:** Ask open ended questions.
- **Follow up:** Ask clarifying questions
- **Focus and Don't Interrupt:** Notice how the witness's statement relates to the crime
- **Review:** Review the contents of the statement with the witness
- **Authenticate:** The witness should sign a declaration that the statement is true to the best of their knowledge
- **Encourage:** Ask the witness to follow up with other information and instruct them not to discuss their statement with anyone else

Interviewing and Report Writing Rapid Reference Card™ · Jamaica

GENERAL TIPS FOR INTERVIEWS

- **Inform:** The officer must remind the suspect or witness of his or her right to remain silent, right to communicate with an advocate, and right to be free from self-incrimination
- **Language:** If they speak another language the officer must first inform them in a language they understand before engaging
- **Don't Interrupt:** Allow the suspect or witness to complete his or her answers
- **Simple Questions:** Ask simple, open-ended questions
- **DO NOT ask leading questions**

SUSPECT INTERVIEWS

- **Right to Silence:** If the arrestee at any point invokes his right to silence or the right to consult with an advocate, the officer must cease questioning
- **Record the Interview:** Remind the suspect or witness that you will take audio or video recording of the interview
- **Seal:** Seal and store the tapes/ statements in a secure, prearranged storage area
- **Non-Verbal Cues:** Note details about suspects demeanor and body language. For example, a suspects playing with his glasses or another item may be a stalling tactic while thinking up answers
- **Actively Listen:** Ask only one question at a time and wait to hear the full answer
- **Remind:** Remind the suspect of any significant statement(s) that he/she made in another interview.
- **Confirm:** Ask if they want to confirm, deny, or add anything to the statement
- **Bond with the Suspect:** Try to form a bond so the suspect will be more likely to open up
- **Take a Break:** A 15 minute break is recommended every two hours.
- **Use of Force:** The officer may not force the arrestee to answer a question or offer the accused any promises

VICTIM INTERVIEWS

Making the Victim Comfortable

- **Children's Guardians:** Make sure that the child's legal representative and/or caregiver are present **UNLESS** you suspect that they may be involved in harming the child.
- **Remain with the Victim:** Remain physically present with the victim at all times
- **Offer Food and Water**
- **Street Clothes:** Wear street clothes, if possible
- **Body Language:** Use calm body language
- **Be Respectful:** Do not treat victims as criminals
- **Perpetrators:** Ensure that the perpetrators do not contact the victim
- **Female Officers:** Have a female officer interview female victims if possible

Questioning

- **Avoid Unnecessary Questions**
- **Privacy:** Before asking sensitive questions, ask if the victim would like to speak to you privately
- **Active Listening:** Listen attentively, make eye contact with victims, show that you care
- **Prosecution:** Do not pressure victims to participate in the prosecution of the case
- **Documentation:** Do not start with questions about documentation or legal status
- **Telling the Story of Others:** Let the victim start by describing what happened to other victims of the same perpetrator before telling his or her own story

Victim's Statement

- **Contact details:** Note the victim's full name, age, address, as well as the names and addresses of parents and other relatives in the area
- **Work details:** Ask details such as where he/she has been working as a child laborer
- **Treatment:** Ask details about how he/she has been treated (e.g. physical violence, limited food)
- **Education:** Ask if he/she is going to school and if so, note grade, name, and address of school
- **Parental Contact:** Whether the victim has had regular contact with parents and if so, how

Other Personnel

- **Service Providers:** Be ready to contact service providers for victims as needed
- **Counselors:** Make a counselor available
- **Interpreters:** Use interpreters if needed, but screen them to ensure that they do not know the victim

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

C138: MINIMUM AGE

Adopted by: International Labour Organization (ILO)
Full name: Convention concerning the Minimum Age for Admission to Employment
Ratified by Jamaica: 13 October 2003
 Requires that the minimum age of employment is not less than the age of completion of compulsory education and not less than 15 years.....I-C 2(3)
 Developing economies may initially set an age of 14 years.....I-C 2(4)
 ILO Recommendation 146 recommends that the minimum age of employment be raised to 16, but developing economies may initially set an age of 15 years.....I-R 7(2)
Jamaican law: the minimum age for employment is **15 years** and **minimum age for light work as prescribed by the Minister is 13 years**.....J-CC 33, 34

CONDITIONS OF EMPLOYMENT

C138 provides that special attention should be given to:

Fair Remuneration

Employers shall not discriminate between male and female employees in the same establishment (equal pay for equal work).....J-EP 3

Limitations and Restrictions of Working Hours:

- There is a limitation of 40 working hours per week and employees can agree to work up to 12 hours a day. Specific rules and conditions vary per sector..... J-FW

Rest Periods

- Employers must provide a minimum consecutive period of 12 hours' nights rest. Weekly rests vary per sector.....J-FW
- For children, no work is permitted between 10 PM to 5 AM.....J-CC 34(3)(b)

Annual holiday

- The duration of the annual holiday and the minimum remuneration for this holiday are related to the duration of the period for which the worker has been employed..J-HP 4(2)(a-b)
 - A person with 10 years of service or more that has worked more than 220 days/year: annual holiday of at least 3 working weeks with pay.....J-HPO Schedule
 - A person that has worked more than 220 days/year: annual holiday of at least 2 working weeks with pay.....J-HPO Schedule
 - A person that has worked 110-220 days: annual holiday of at least 1/22 of the days worked with pay.....J-HPO Schedule

EXCEPTIONS TO C138

- **Artistic Performances:** Certain exceptions may be made for participation in artistic performances or limited categories of employment in which special and substantial application problems arise.....I-C 4
- **Light Work:** Persons 13 and 14 years of age may engage in "light work," which is work that is
 - Not likely to be harmful to their health or development andI-C 7(1)(a)
 - Not likely to prejudice their school attendance or participation in certain vocational orientation or training programs.....I-C 7

WORK AGES UNDER C138

	Ordinary Work	Light work	Hazardous work
General rule	15	13	18 (16 provided that young persons are fully protected and have been given adequate instruction and vocational training.)
Where the economy and educational facilities are insufficiently developed	14	12	18 (16 provided that such young persons are fully protected and have been given adequate instruction and vocational training to undertake such work.)

JAMAICAN LAW

No child under the age of **18** may be engaged in:.....J-CC 34(3)(b)

- Night work
- Working in a mine, quarry, distillery/brewery, or a sugar, spirit compounds, match, soap, cigar or cigarette factory or any undertaking where these articles are manufactured, altered cleaned, repaired, ornamented, et cetera
- Transmission of electricity and motive power of any kind
- Construction, reconstruction, maintenance, repair, alteration, or demolition
- Transport of passengers or goods

KEY:

I-C refers to ILO Convention No. 138 On The Minimum Age For Admission To Employment, which Jamaica ratified 13 October 2003
 I-R refers to ILO Recommendation No. 146 Concerning Minimum Age For Admission to Employment (1973)
 J-CC refers to Jamaica's Child Care and Protection Act (Act 11 of 2004, Act 12 of 2009)
 J-EP refers to Jamaica's Employment (Equal Pay For Men and Women) Act (Act 34 of 1975)
 J-FW refers to Jamaica's Employment (Flexible Work Arrangements) Act (Act 14 of 2014)
 J-HP refers to Jamaica's Holidays with Pay Act (Act 42 of 1954)
 J-HPO refers to Jamaica's Holidays with Pay Orders of 1973

Copyright© Lawyers Without Borders, 2018, All Rights Reserved. Funding for this project was provided by the United States Department of Labor under Cooperative Agreement number IL-26260-14K. The CLEAR II project led by Winrock International. This material does not necessarily reflect the views or policies of the United States Department of Labor, nor does the mention of trade names, commercial products, or organizations imply endorsement by the United States Government.

**LAWYERS
WITHOUT
BORDERS**
Crossing Borders
to Make a Difference



Worst Forms of Child Labor: International and Domestic Law Rapid Reference Card™ • Jamaica

C182: WORST FORMS OF CHILD LABOUR

Adopted by: International Labour Organization (ILO)
Full name: Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

Ratified by Jamaica: 13 October 2003

“Child” means any person **under the age of 18**.....I-WF 2

- Jamaica’s Child Care and Protection Act defines a child as a person under the age of 18.....J-CC 2

“Worst Forms of Child Labour” (WFCL) include:

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

HAZARDOUS EMPLOYMENT

- Minimum age for employment likely to jeopardize the health, safety or morals of young persons (“**hazardous employment**”) shall not be less than **18 years**I-C 3(1)
- Consideration should be given to work expressing children to **abuse**, taking place in **dangerous environments**, involving **dangerous tools or heavy loads** or being under **difficult conditions**.....I-R 3
- Such employment **may be permitted at age 16** where the health, safety and morals of young persons are protected and adequate instruction/training is provided I-C 3(3)
- Such types of employment shall be determined by national laws, regulations or competent authority.....I-C 3(2)
 - Jamaica is currently drafting an official list of hazardous work activities.
- If the minimum age for hazardous employment is below 18 years, immediate steps should be taken to raise it to 18.....I-R 9
- C138 provides that international labour standards should be considered, and the list of hazardous activities should be regularly re-examined and, if necessary, updatedI-R 10

JAMAICAN LAW ON WORST FORMS

Types of work that are prohibited for children

The following types of work are prohibited for children:

- Any work that is likely to be hazardous or to interfere with the child’s education or to be harmful the child’s health or physical, mental, spiritual or social development.....J-CC 34(3)(a)
- Night work.....J-CC 34(3)(a)
- Mining, manufacturing, transportation and construction sectors.....J-CC 34(3)(b)
- Operating lifting machinery or giving signals in a factory or dock..J-BO 49(2), J-DO 55
- Working on a ship (except those over sixteen working in a supervised apprentice in a ship’s engine room...J-SA 127(4)
- Child labour for illicit activities: no use of a child for the purposes of any conduct contrary to decency or morality.....J-CC 39(1)(b)
- Producing child pornography.....J-CP 3
- Selling or participating in the trafficking of a child.....J-CC 10
- Procurement of a child for sexual purposes.....J-SO 18

ENFORCEMENT

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

Special attention should be given to:

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

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

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

For verification of ages, Member States should:

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

KEY:

I-C refers to ILO Convention No. 138 On The Minimum Age For Admission To Employment, which Jamaica ratified 13 October 2003

I-WF refers to ILO Convention No. 182 On The Worst Forms of Child Labor, which Jamaica ratified 13 October 2003

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

J-BO refers to Jamaica’s Building Operation and Works of Engineering Construction (Safety, Health, and welfare) Regulations 1968 (L.N. 214/68)

J-DO refers to Jamaica’s Docks (Safety, Health and Welfare) Regulations 1968 (L.N. 215/68)

J-CC refers to Jamaica’s Child Care and Protection Act (Act 11 of 2004, Act 12 of 2009)

J-CP refers to Jamaica’s Child Pornography Prevention Act (Act 13 of 2009)

J-SA refers to Jamaica’s Shipping Act (Act. No. 8 of 1998)

J-SO refers to Jamaica’s Sexual Offences Act (Act 12 of 2009)

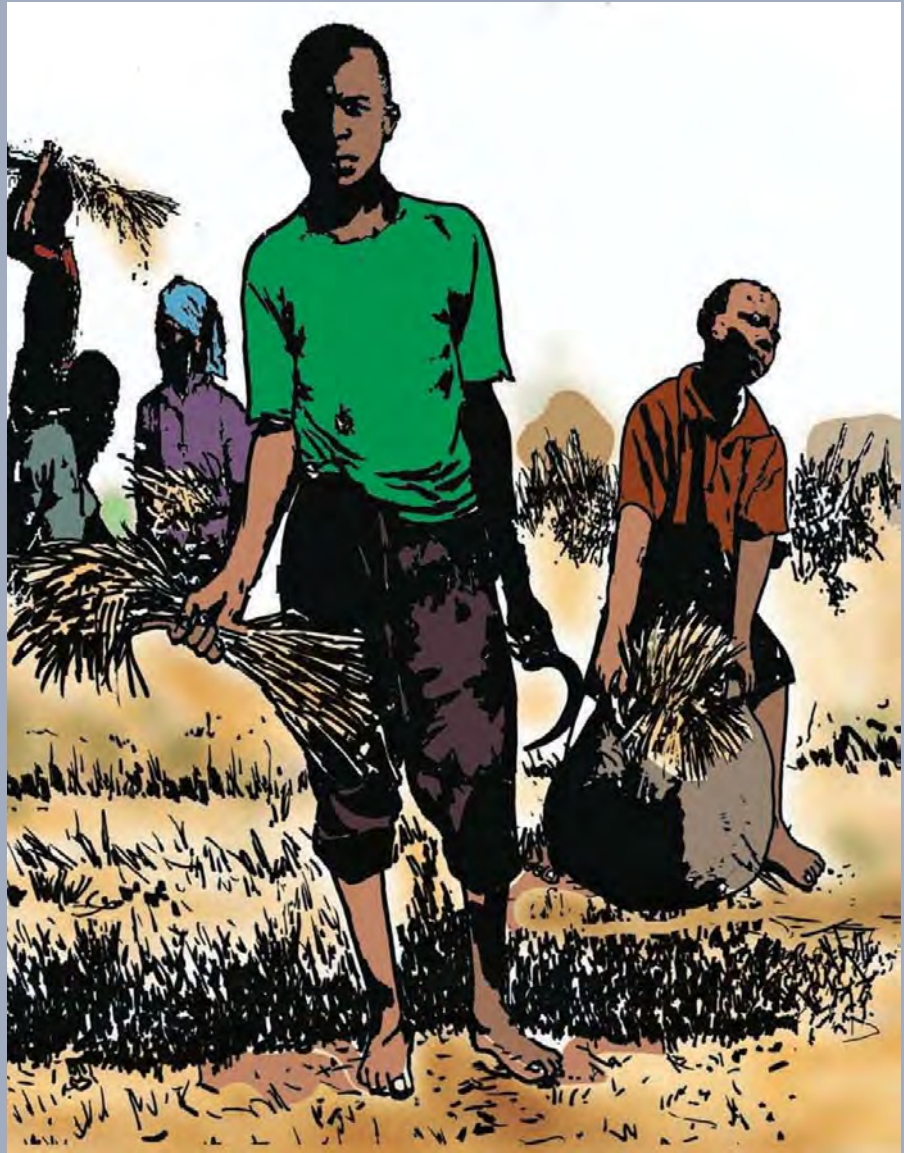
Copyright© Lawyers Without Borders, 2018, All Rights Reserved. Funding for this project was provided by the United States Department of Labor under Cooperative Agreement number IL-26260-14K. The CLEAR II project led by Winrock International. This material does not necessarily reflect the views or policies of the United States Department of Labor, nor does the mention of trade names, commercial products, or organizations imply endorsement by the United States Government.

**LAWYERS
WITHOUT
BORDERS**
Crossing Borders
to Make a Difference





Child Labour Investigations and Prosecutions Manual



**LAWYERS
WITHOUT
BORDERS**
*Crossing Borders
to Make a Difference*



**WINROCK
INTERNATIONAL**

Lawyers Without Borders

Winrock International

Country Level Engagement and Assistance to
Reduce Child Labor II (CLEAR II)

Preface

This manual is intended as a practical training guide to support stakeholders in Jamaica combatting child labour.

Child Labour is a complex crime. Combatting it requires enormous effort by many actors including law enforcement, prosecutors, NGOs, social workers and others in the joint effort to protect and assist its victims and prosecute perpetrators.

This manual outlines key concepts and provides tools and strategies to help during every phase of the criminal justice response to child labour. Beginning with an overview of the crime in Jamaica and globally, the manual includes recommended best practices for how to identify, protect and work with victims, how to collect admissible evidence, and how to provide testimony that can lead to the conviction of culprits.



Funding for this project was provided by the United States Department of Labor under Cooperative Agreement number IL-26260-14K. The CLEAR II project is led by Winrock International.

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

This manual is a draft version. Should edits be made after consultations with stakeholders during the Child Labour Prosecutions Training of Trainers Workshop, LWOB will forward an updated electronic version to training participants.








Table of Contents

Key	3
Chapter 1: Introduction to Child Labour	5
1.1—What is Child Labour?	5
1.2—Child Labour Law: International and National Standards	7
1.3—Child Labour in Jamaica	13
Chapter 2: Collecting Evidence in Child Labour Cases	19
2.1—Indicators of Child Labour	19
2.2—Crime Scene Examination: The Basics	20
2.3—Documenting the Crime Scene	24
2.4—Securing the Crime Scene	27
2.5—Collecting Evidence from People	29
Chapter 3: Interviewing and Working with Victims	32
3.1—Victim Protection and Assistance	32
3.2—Coordinating with Service Providers	36
3.3—Interviewing Child Victims	37
Chapter 4: Testifying in Court	41
4.1—Preparing to Testify	41
4.2—Taking the Witness Stand	42
Chapter 5: Child Witnesses in a Child Labour Case	51
5.1—Child Witnesses in a Child Labour Case	46
5.2—Preparing to Testify	47
5.3—Taking the Witness Stand	48

Table of Contents

Appendix A: Child Care and Protection Act (2004)	53
Appendix B: ILO Convention 138 on Minimum Age	91
Appendix C: ILO Convention 182 on Worst Forms of Child Labour	99
Appendix D: ILO Recommendation 146 on Minimum Age	105
Appendix E: ILO Recommendation 190 on Worst Forms of Child Labour	111

Key

Group Activity	
Group Discussion	
Question	
Advanced Discussion	
Helpful Tips	
Case Study	
Writing Exercise	



Advanced Discussion Boxes:

These sections will appear in gradient green columns at the edge of pages. These sections are intended to build upon the material presented in the manual and provide you with additional information to address topics in-depth.



Tips will provide you with useful information to improve your training skills.



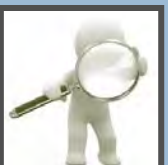
Group Activity

In these boxes, you will be instructed to work with group members on an exercise related to the key concepts, principles, or best practices discussed in this manual. These activities are designed to help you with the practical application of the material presented.



Question and Group Discussion

These boxes pose questions for training groups to discuss together, to exchange their experiences and ideas about investigative best practices and to encourage conversations and collaboration between colleagues. These boxes also provide suggested talking points for trainers to prompt conversation, in the event that trainees are hesitant to volunteer.



Case Study

In these boxes, a scenario will be presented that provides key facts and events related to the crime of trafficking, the victim, the suspect, and other relevant topics. Trainees will have the opportunity to use these scenarios to prepare for a follow-up writing exercise. Trainees can also use the case studies to engage in more thoughtful group discussion.



Writing Exercise

Questions provided in these boxes will be either based on a case study given at the end of a chapter or presented as a quiz based on key principles discussed throughout the chapter. Trainees should write down their responses on the lines provided, such as those below. These questions will help trainees think critically about the materials presented in the chapter.

Chapter 1: Introduction to Child Labour

Child labour affects approximately 246 million children around the world, including 53,000 children in Jamaica. Child labourers are at risk of not completing their education, and may be at risk for physical or moral harm. This chapter will introduce the definition of child labour from the international legal framework to domestic law and help distinguish among child labor, child work, and other crimes against children.

1.1 What is Child Labour?

Child labour is defined under both international and domestic law. In the broadest sense, child labor occurs when a child's employment is **dangerous, harmful, or interferes with schooling**. Not every child who works is engaged in child labor. This section will help you to distinguish between harmful child labor and permissible child work.

Who is a child?

Both international and Jamaican law define a child as any person under the age of eighteen years. See ILO Convention 182 §2 and Jamaica's Child Care and Protection Act §2. To determine a child's age, an appropriate age verification process should be undertaken (see Chapter 2).

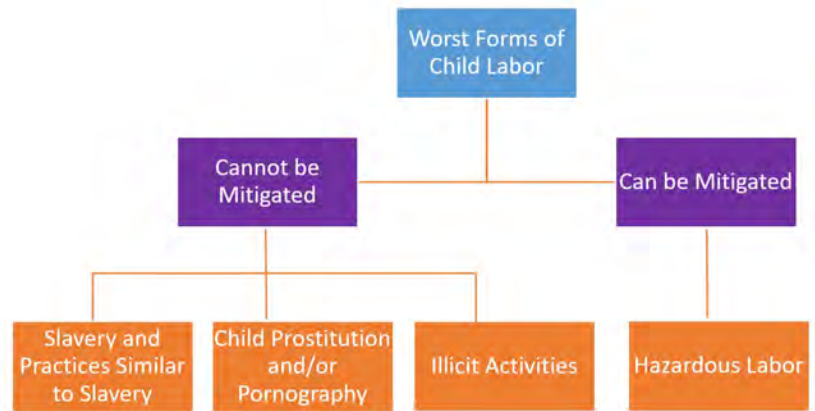
What is child labour?

The ILO's definition of child labour below depends on three elements: (1) the **type** of work done, (2) the **conditions** under which the work is performed, and (3) the **age** of the person.

Types of work: It is important to first understand the type of work being undertaken. Different types of work are permissible for different age groups.

- **Light work** is work that is not likely to be harmful to a child's health or development, and not likely to prejudice their school attendance or participation in vocational training programs. Examples could include working a cash register, sweeping floors, photocopying documents and assisting with office tasks, or weeding a garden. Many countries create a discrete list of activities that count as light work, often known as a "light work list."
- **Child Work** is work that children are legally permitted within certain restrictions of age and activity. It is unlikely to endanger a child's health, safety, or morals and does not interfere with schooling. This type of work helps children gain skills and responsibility, and may assist their families.
- **Worst Forms of Child Labor (WFCL):** WFCL include slavery and practices similar to slavery such as child trafficking, debt bondage, serfdom, and forced labor; sexual exploitation; illicit activities (e.g., producing and trafficking drugs); and hazardous work. Hazardous work can be permissible for older children, if appropriate risk mitigation mechanisms are in place. The other WFCL are **never** allowed for children.

- **Hazardous work** is work likely to jeopardize the health, safety, or morals of children. This includes work:
 - Exposing children to abuse,
 - Taking place in dangerous environments,
 - Involving dangerous tools or heavy loads, or
 - Undertaken in difficult conditions.



Hazardous work is considered a WFCL, but national law can provide for appropriate mitigation steps that will make it safe for older children to undertake this work. The chart above well illustrates the distinction between Hazardous Work and other WFCL. As with Light Work, most countries create a “hazardous work list” via regulation that lays out the specific types of work considered hazardous.

Conditions of work: In addition to the type of work being undertaken, specific conditions must be in place for a child’s work to be legal. These conditions differ according to the type of work, and may include provisions relating to hours and time of day restrictions, supervision and training requirements, and rest periods.

Age: The final criteria to determine eligible forms of work is age. The chart below illustrates the kinds of work permitted to specific ages.

Jamaican Child Labour Age Requirements			
Type of Work	Light Work	Child Work	Hazardous Work
Age Range	13—14	15-17	18*

* In some instances hazards may be mitigated for children ages 16 and 17. This includes adequate training, supervision, and safety measures. Hazardous Work that can be mitigated must be identified by the government body responsible for identifying hazardous work. In Jamaica, this is MLSS.

As mentioned in several places above, a key component of distinguishing child labor crimes is whether the work interferes with schooling. In Jamaica, children are required to attend school until attaining the age of sixteen, at which point they may leave school and seek employment. This is referred to as **Compulsory Schooling**.

Remember!
 Not all child work is bad. Children can learn new techniques, social skills, and responsibilities with proper practices. However, such employment must have protective measures and limitations to ensure the safety and health of the child.

1.2

Child Labour Law: International and National Standards

The framework of child labour law comes from a governing set of international instruments that have been domesticated into national law. This section will briefly discuss the key international documents governing this topic, including Jamaica's commitment to each, while Section 1.3 summarizes Jamaican domestic law on the topic.

The key instruments governing child labour come from the International Labour Organization (ILO) and the United Nations (UN). These documents define child labour, including the worst forms, set recommended minimum ages for work, and more. A more detailed description of each instrument is below.

Convention	Jamaican Ratification
ILO C. 138, Minimum Age , 1973	13 Oct 2003
ILO C. 182, Worst Forms of Child Labor, 1999	13 Oct 2003
UN Convention on the Rights of the Child, (CRC), 1990	14 May 1991
UN CRC Optional Protocol on Armed Conflict, 2002	9 May 2002
UN CRC Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography, 2002	26 Aug 2011
UN Palermo Protocol on Trafficking in Persons, 2000	29 Sep 2003

ILO 138: Convention Concerning Minimum Age for Admission to Employment

ILO Convention 138, Concerning Minimum Age for Admission to Employment ("C-138"), was adopted in 1973. To date, 168 countries have ratified the Convention.

Although C-138 was adopted with a view towards the total abolition of child labor, the ILO recognized that an effective way to ensure that children do not start working at a young age is to regulate the age at which children can legally enter the workforce. Additionally, C-138 was adopted as a general convention to apply across all economic sectors, thus aiming to replace the previous ad hoc system of industry-specific conventions addressing the issue of minimum age.

C-138 outlines specific obligations of ratifying states with respect to minimum age requirements, including:

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

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

ILO 146: Recommendation Concerning Minimum Age for Admission to Employment

ILO Recommendation 146, Concerning Minimum Age for Admission to Employment (“R-146”), adopted in 1973, strongly suggests that signatories take urgent steps toward raising the minimum age for admission to employment for all economic activity to age 16 (or age 15 for those countries meeting certain conditions). R-146 also recommends raising the minimum age to age 18 for work that “is likely to jeopardise the health, safety or morals of young persons”, which it defines “hazardous employment or work.” As a “recommendation,” ILO 190 does not have binding force.

ILO 182: Convention on the Worst Forms of Child Labour

ILO Convention 182, the Convention on the Worst Forms of Child Labor (“C-182”), was adopted in 1999. To date, 180 countries have ratified C-182.

The drafters recognized that particularly harsh forms of child labor are uniquely detrimental to children’s health, and the Convention outlines specific obligations of ratifying states with respect to prohibiting and eliminating the worst forms of child labor “as a matter of urgency.”

The Convention defines four “worst forms,” which include: 1) slavery and practices similar to slavery; 2) the use of children for prostitution or pornography; 3) the use of children for illicit activities, such as drug trafficking; and 4) work that, by “its nature or circumstances in which it is carried out, is likely to harm the health, safety or morals of children.” Recognizing the detrimental effect that child labor has on a child’s ability to attend school, the Convention mandates that States Parties ensure access to free primary education and, whenever possible, provide for vocational training programs for all children, particularly at-risk youth.

ILO 190: Recommendation Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child labour

ILO Recommendation 190, Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (“R-190”), was adopted in 1999 as a supplement to C-182.

R-190 provides guidance on implementation measures with respect to prohibiting and eliminating the worst forms of child labor. R-190 lists a host of implementation measures, including that certain offenses should be criminalized. R-190 also provides guidance as to how states may choose to define types of hazardous work, which is a specific sub-set of worst forms of child labor set out in the Convention.

R-190 urges states to consider hazardous work as including work that exposes children to physical, psychological, or sexual abuse; work that occurs in certain dangerous geographic locations; any work with dangerous tools or machinery; work in unhealthy environments; and work under “particularly difficult conditions,” such as long hours.

Jamaica's Other International Obligations: UN Protocols

The crime of child labour is not exclusive to any one country, and victims are often trafficked across one or more national borders, specifically with children immigrating with family for work. Thus, international cooperation is necessary for any response to child labour to succeed. In addition to passing its own National Action Plan on Child Labour law and being a member of the Regional Initiative Latin America and the Caribbean Free of Child Labour, Jamaica is also a party to several international agreements (noted below) through its membership in the United Nations (UN).

UN Convention on the Rights of the Child (CRC)

The UN Convention on the Rights of the Child (CRC) globally recognized that children are individuals deserving of the full compliment of human rights. As reported by UNICEF, the CRC is the most rapidly and widely ratified treaty international human rights treaty in history.

The CRC entered into force in 1990 with Jamaica as one of its 140 signatories. The purpose of the treaty is to protect children's rights globally, extending to elements including standard of living and education. Article 32(1)(2) specifically addresses child labour laws and provides that governments should protect children from work that is hazardous or detrimental to a child's health and safety. In addition, a child's work must not interfere with any of the other rights listed in the treaty, or with the child's education.



UN Convention on the Rights of the Child on Child Work:

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admission to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

CRC Articles 32(1) and 32(2)

UN CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography

Jamaica was one of the 121 signatories of the UN CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, which went into effect in 2002. This protocol aims to protect children from sexual exploitation, one of the worst forms of child labour. Jamaica implemented the Protocol's prohibition of production, distribution, importation, exportation, or possession of child pornography and the use of children for child pornography in its Child Pornography Prevention Act of 2009.

UN CRC Optional Protocol on Armed Conflict

The UN CRC Optional Protocol on Armed Conflict was adopted in 2002 to combat the involvement of children in armed conflict. The Jamaican Defence Act of 1962 establishes in Article 18(2) that "a recruiting officer shall not enlist a person under the age of eighteen years in the regular Force..." unless specific consensual guidelines are met and written. The Jamaican Defense Act has been amended over years to execute the UN protocol into Jamaican laws by including this age limit in other branches of Jamaica's force, such as the Jamaica National Service Corps.

UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo)*

The UN Palermo protocol of 2003 is a supplement to the UN Convention against Transnational Organised Crime. The Palermo Protocol sets forth requirements and minimum standards for extradition, mutual legal assistance, and other forms of international cooperation. It has three basic purposes:

- i) To prevent and combat trafficking;*
- ii) To protect and assist victims of trafficking; and*
- iii) To promote cooperation between countries in order to meet those objectives.*

(Article 2 of the UN Palermo Protocol, 2000)

Every state party to the Palermo Protocol, including Jamaica, must ensure that its domestic legal framework for human trafficking meets these minimum requirements. It also sets legal standards to help countries eliminate differences among anti-human trafficking laws that hinder international cooperation. Child trafficking is a Worst Form of Child Labour.



Jamaican Law on Child Labour

Jamaica's primary law affecting the employment of children is The Child Care and Protection Act of 2004 (CCPA). The CCPA is a comprehensive statute that seeks to promote the best interests, safety, and well-being of children in Jamaica. It also domesticates Jamaica's international obligations regarding child labour. The Act identifies the restrictions and qualifications of a person's age, type and conditions of work. Key categories of restrictions in the CCPA are outlined below.

Work Restrictions by Age

The CCPA establishes the circumstances under which children may be legally employed in Jamaica. It defines a child as any person under the age of 18 (Section 2). A child may not be employed before the age of thirteen, and then only in light work until the age of fifteen (Sections 33–34). A full enumerated list of light work must be established by regulation.

Hazardous Work

Under the CCPA, a child may not work at night or engage in hazardous work (Section 34). Children are also specifically prohibited from engaging in:

- Work in a mine, quarry, distillery/brewery, sugar or spirit compounds, match, soap, cigar or cigarette factory, or any undertaking where these articles are manufactured, altered, cleaned, repaired, ornamented, etc.
- Transmission of electricity and motive power of any kind
- Construction, reconstruction, maintenance, repair, alteration or demolition
- Transport of passengers or goods (Section 34(3)(b))

Conditions of Work

The CCPA prohibits night work (i.e., work between the hours of 10 p.m. and 5 a.m.), and provides the Minister of Labour with the authority to specify the number of hours that a child can work. (Section 34).

Compulsory Schooling

Parents and guardians are responsible for ensuring that their children attend school until the age of sixteen. (Section 28). Children in Jamaica are entitled to a free public education according to the Jamaican Charter of Fundamental Rights and Freedoms (Section 13(k)).

Offences

Section 36 of the CCPA establishes offences for violation of child labor laws by:

- Employing a child under age 13
- Employing a child under age 15 in non-light work
- Employing a child in hazardous work, work that negatively impacts education, work at night, or work in an industrial undertaking.

Offenders are liable to summary conviction by a Magistrate judge to a fine not exceeding 500,000 Jamaican dollars and/or imprisonment not to exceed six months.



Other Laws Prohibiting Industry-Specific Hazardous Work:

In addition to the CCPA, Jamaican law also contains some restrictions on child work specific to industry. These include:

- The Factories Act: Building Operations and Works of Engineering Construction Regulations (Section 49)
- The Factories Act: Docs (Safety, Health and Welfare) Regulations (Section 55)
- The Mining Act (Section 18)



National Action Plan on Child Labour

From 2012-2015, the Jamaican Government created a National Policy on Child Labor and a new Plan of Action to Combat Trafficking in Persons. Though these have not entered into force yet, the MLSS Child Labour Unit oversees the implementation of the country's Plan, while the Task Force manages the Plan's oversight.

According to the US Department of Labour, the Plan identifies four primary missions:

- ⇒ *“To collect current and reliable data on child labor,*
- ⇒ *To establish public awareness and sensitize the Jamaican people to the problem,*
- ⇒ *To improve the Labor Ministry's personnel capacity to be able to identify child laborers, and to work with trade unions,*
- ⇒ *As well as the Jamaican Employers' Federation, to raise awareness*

Other Relevant Provisions of the CCPA

- **Parent and Guardian Responsibilities:** The CCPA requires parents and other persons responsible for a child to provide “adequate food, clothing, lodging and health care appropriate to the ages and needs of the child” (Section 27)
- **Reporting Requirements:** Under the CCPA, doctors, teachers, social workers, and others are obligated to report to the Office of the Children's Registry the abuse, neglect, or abandonment of a child (Section 6)
- **Giving of Evidence:** The CCPA sets out the conditions under which a child may provide evidence to a court (Sections 18-20, 42-43). This topic will be covered in more detail in Chapter 4.

Social Programs

In addition to its legal and regulatory requirements, Jamaica has also developed the following social programs tackling child labour.

Tackle Child Labour Through Education (TACKLE)

TACKLE aims to reduce poverty and increase a child's accessibility to basic education in order to eliminate child labour. This program is funded by the European Commission, and collaborates with other NGOs. A primary principle of the TACKLE program includes strengthening the legislative framework prohibiting child labour.

The Program for Advancement through Health and Education (PATH)

The PATH program provides two types of grants: (1) a health grant, contingent on certain members of the household attending public health clinics at regularly scheduled intervals, and (2) an education grant, contingent on children aged 6-17 attending school for at least 85 percent of the total number of school-days each month. The grants are between J\$750 and J\$1265 per month per eligible beneficiary in the household.

In September 2018, the Ministry of Labour and Social Security announced a Back-to-School grant of J\$3,500 (per student who is on the PATH program).



1.3

Child Labour in Jamaica

In 2016, approximately 53,000 children between the age of 5 and 17 were working in Jamaica. Within this group, 71% were engaged in child labour and the majority of child labourers, 68%, or over 26,000 children, performed hazardous work. Child labour occurs both in the formal and informal sector. The formal sector is monitored by the Government and examples of this sector include factories, construction sites, or docks and ships. The informal sector includes urban and rural communities, such as working in households or in agriculture. This latter sector is harder to monitor, which is one of the main reasons why children in rural areas are more often exposed to child labour.

Children’s Work and Education in Jamaica 2017

Children	Age	Percent
Working (% and population)	5 to 14	6.2 (30,111)
Attending School (%)	5 to 14	98.9
Combining Work and School	7 to 14	7.2

Data from: <https://www.dol.gov/sites/default/files/documents/ilab/Jamaica.pdf>

Any type of work interfering with required school attendance can be considered child labour. Education is a priority for the child’s development and the Jamaican Child Care and Protection Act sets compulsory attendance until the age of sixteen. While the percentage of children attending school in Jamaica was extremely high in 2017 (98.9%), 7.2% of children were combining school with work. These two activities cannot always be combined, and it is very likely that the child’s labour will affect his/her attendance and performance at school. Disruption of compulsory schooling due to work obligations in any sector is a common indicator of child labour.

The Formal Versus Informal Economy

The majority of child labour in Jamaica is in the informal sector. The informal sector includes work such as on small farms, in homes, and street vending. It also includes illegal activity such as drug trafficking and prostitution. It can be difficult to identify child labour because the informal sector is unregulated and labour inspectors are only mandated to inspect work places in the formal sector. Labour officers and factory inspectors have the power to enter a wide range of establishments, but not private dwellings and unregulated businesses, such as street vendors.

Labour inspectors and factory inspectors are authorized to inspect businesses in the formal sector. These businesses pay taxes and workers make social security contributions. Employees typically have regular fixed salaries and clearly stated conditions of employment and/or contracts.

Working Children by Sector	%
Services	80.6
Agriculture	16.5
Industry	2.9

Data from: <https://www.dol.gov/>

Forms of Child Labour

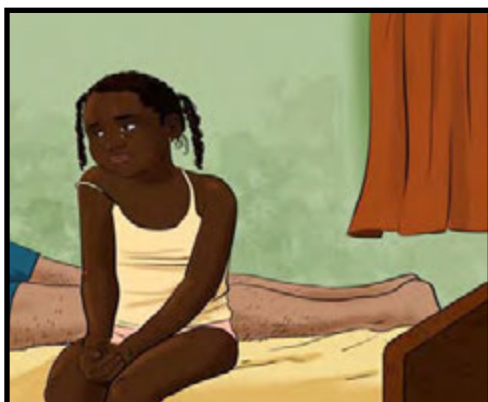
Child labour includes children who work more than permitted for their age, children engaged in hazardous work, and children engaged in the worst forms of child labour. Most often, the worst forms of child labour will be prosecuted as other crimes. Even though the latter might be prosecuted differently with a different penalty, it still falls within child labour. Examples of child labour are included below.

Agriculture: Children are often used for farming and fishing. This work might not be adjusted to the child's age: often they have to carry around heavy weights or perform very dangerous work such as cutting trees.

Gardens, shops, markets and restaurants: Even though this work is not always as heavy as mining or working in the industry or agriculture, it can be illegal.

Construction Sites: Working on construction sites or in mines are also sectors in which child labour often occurs. Since the work is very physically demanding, this is almost always hazardous work. If the work is hazardous, the employees have to be at least 18.

Domestic Work: Children may also be performing child labour if they work too much within their own family or in another household. It is normal to help parents/guardians by cooking every once in a while and helping to maintain a habitable home, but it gets out of control if the child suffers physically/mentally and/or is absent from school because of such work. Working in another household also falls under domestic work and is prohibited. Child labour in this sector is harder to prove because of the thin line between what is illegal and what is not.



Child Pornography and Sexual Exploitation: This is one of the worst forms of child labour that would be prosecuted as another crime. Child pornography is easy and inexpensive to produce. It is a very profitable and relatively low-risk crime as compared to, for example, selling drugs or guns. Sexual exploitation is often (but not always) combined with child trafficking. Children who are trafficked for commercial sex work are exploited in tourist regions of the country and are often the victims of physical and emotional abuse by traffickers, pimps, and clients.

Illegal Activities and Street Begging/Selling: Children from dysfunctional or very poor households are particularly vulnerable to being recruited for low-level street crime. Small children are also used by employers as street beggars and street vendors. Even though Jamaica has laws prohibiting the use of children in illicit activities, there is no specific prohibition for using them in drug trafficking or production. Using children in illegal activities would also be prosecuted as a different crime.



Government Stakeholders Working Against Child Labour

The Government of Jamaica has undertaken considerable efforts to eliminate child labour. Several institutional mechanisms have been established coordinating between multiple ministries, agencies and departments within the Government. The chart below gives a brief description of the role of several institutions.

Agencies Responsible for Child Labour Law Enforcement	
Organization	Role
Ministry of Labour and Social Security (MLSS)	The MLSS enforces and administers child labor laws in the formal sectors of the economy. Within the MLSS, a special taskforce called the Child Labour Unit was established in order to coordinate and share information with other agencies to address child labour issues.
Child Protection and Family Services Agency (CPFSA)	The CPSFA was formed out of a merger of the Child Development Agency and the Office of Children’s Registry. It is currently under the purview of the Ministry of Youth and Education and monitors and investigates suspected child labour violations and oversee efforts to address child labour. Furthermore, the agency receives complaints on a hotline for child abuse, including child labour, child trafficking, and commercial sexual exploitation of children. It also refers suspected cases of child abuse to law enforcement.
Jamaica Constabulary Force (JCF)	The JCF enforces criminal laws, including those related to Worst Forms of Child Labour. Two specific taskforces within the JCF are of importance to child labour cases. The Trafficking in Persons Unit investigates and prosecutes cases of child trafficking and commercial sexual exploitation. The Center for the Investigation of Sexual Offences and Child Abuse (CISOCA) focuses on victim rehabilitation and educates the public about sexual offences against children. In addition, it investigates and prosecutes sexual offences and child abuse cases.
Office of the Children’s Advocate (OCA)	The OCA assists in cases involving children. They are often asked to consult on cases by prosecutors and judges.
Victim Support Unit (VSU)	The VSU is operated by the Ministry of Justice and was created to assist victims of an offence, to protect them, and to serve their interests. They provide orientations that teach victims about the court process.

Child Protection

In its increasing effort to combat child labour, the Government of Jamaica introduced a National Plan of Action on Child Labour (NAP) (See Advanced Topic Box on page 15 for more information). The NAP is meant to create a protective environment for children by strengthening legislative structures and introducing a responsive model to all forms of child labour. It identifies objectives, actions, and responsible agencies to combat forced child labour, through prevention, protection, and prosecution. The Child Labour Unit of the Ministry of Labour and Social Security (MLSS) is responsible for implementing Jamaica's NAP.

The Child Protection and Family Services Agency (CPFSA), which was created from a merger of the CDA and the Office of Children's Registry (OCR), is also a main actor in the battle against child labour. It provides intake, receives reports, and manages the Child Abuse Registry; investigates reports of child abuse, abandonment and neglect to determine the best interest of the child which supports the Courts and the JCF; provides support to children in need of care and protection (those who have been, abused, abandoned, neglected or vulnerable due to disability); carries out advocacy/public education programmes to prevent child abuse, and advises government on policy and legal issues relating to children.

Investigation

As indicated by the table below, the number of investigations in Jamaica from 2016 to 2017 has dropped significantly. The number of prosecutions initiated (and consequently, the number of convictions) has dropped to zero. This may be due to insufficient resources made available to inform prosecutors and law enforcement about the crime of child labour.

Between 2016 and 2017, the number of violations reported increased slightly, but remains low. This can be attributed to the insufficient number of labour inspectors in Jamaica's workforce, and its inability to investigate informal sectors of the economy. Since much of Jamaican child labour is found within the informal sector of the economy, this remains a significant barrier.

Criminal Law Enforcement Related to Child Labour

Overview of Criminal Law Enforcement	2016	2017
Number of Investigations	36	25
Number of Violations Found	1	3
Number of Prosecutions Initiated	3	0
Number of Convictions	3	0

Data from: <https://www.dol.gov/sites/default/files/documents/ilab/Jamaica.pdf>

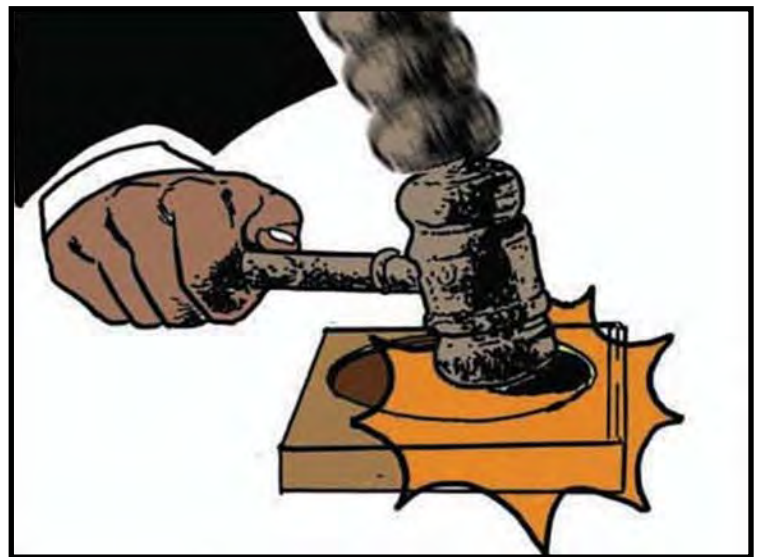
Prosecution

In order to enforce anti-child labour laws, the Jamaican Government has created a taskforce that includes representatives from the Ministries of National Security and Foreign Affairs, the Jamaica Constabulary Force (JCF), the Department of the Public Prosecutor (DPP), and the Ministries of Health, Education, Labor, Youth and Culture. The taskforce acts as a forum to exchange information between the different members.

The power investigate and prosecute child labour cases lies with the second and third members of the taskforce: the JCF and the Department of the Public Prosecutor. The Jamaican Government provides training, tools and methods for the JCF and the DPP to prosecute cases involving the Worst Forms of Child Labour.

The number of reports about crimes involving children received by the OCR has increased exponentially since 2008. The number of children concerned rose to 9,883 in 2015, a 2,200% increase from 2007. This increase is mainly due to the Government's increasing effort to educate people about crimes involving children. However, of 13,948 reports filed in 2015, only 505 concerned child labour. In 2017, only 25 child labour cases were investigated and none were prosecuted. Considering that the Jamaica 2016 Youth Activity Survey conducted by the ILO and the Statistical Institute of Jamaica (STATIN) estimates that over 37,000 of Jamaican children are engaged in child labour, indicating a need for increased child labour investigations and prosecutions.

The Jamaican Government has made strides to address the resource deficiencies to combat child labour in Jamaica by the end of 2018. The country, with the help of international bodies, is addressing legislative gaps in children's rights and has pledged to allocate more resources to educating citizens and law enforcement officials about child labour crimes.





Chapter Summary

In this chapter, we learned how to define child labour. The definition of child labour comes from the International Labour Organization's Conventions, specifically ILO Convention 138 addressing three key factors: **age**, **type** of work, and **conditions** under which the work is performed. ILO Convention 138 of 1973, the Minimum Age Convention, established the minimum age for employment. C-138 also sets the minimum age for light work and hazardous work. age limit to when children can legally be employed. The Child Care and Protection Act 2004 has implemented these provisions.

The chapter has also addressed the Worst Forms of Child Labour, including hazardous work. The roles of different groups in child labour investigations and prosecutions was also identified.

Chapter 2: Collecting Evidence in Child Labour Cases

This chapter discusses how to collect, document, and preserve evidence in a child labour case in order to support a successful prosecution of child labour officers. You will learn the types of evidence that are relevant to child labour cases and what to look for at a crime scene. This chapter also teaches how to secure and protect the integrity of a crime scene and how to document the scene as you find it. You will also learn how to identify various types of evidence and best practices for evidence collection and preservation.

Indicators of child labour are signs that may suggest that the existence of child labour. Indicators are essential tools to use to identifying cases of child labour. Child labour may easily be overlooked if indicators are not recognized.

2.1 Indicators of Child Labour

Age

- Is the child less than 13 years old?
- If the child is between 13-15 years of age, is he/she working during the night time?
- Does the work exceed the permissible number of hours for the child's age?

Hours of Work

- Children working at night
- Excessive overtime with children working more than 4 hours a day
- No paid weekly day off

Schooling

- Will the work prevent the child from attending school?
- Is the child obliged to leave school prematurely to do work?
- Does the child have to try to combine school attendance with extremely heavy work and long hours of working?

Worst Forms of Child Labour

- Abusive working conditions with no arrangements for health and safety
- Participation in hazardous work with inadequate protection
- Involvement of children involved in illegal activities
- Abuse or exploitation by employer
- Child sexually abused by employer or other labourers
- Employed in work through coercion
- Isolation — children forced to be isolated physically, even in populated areas
- Restriction of movement — children are not free to enter and exit the work premises
- Is a parent/guardian receiving monetary or other benefits as payment for the work in which the child is engaged?
- Does the work expose the child to being sexually abused?
- Is the child using dangerous tools, equipment, or chemicals?

Employment Conditions

- Children performing unpaid labour
- Children not paid minimum wage
- Withholding of wages
- Children performing work different from that which they were recruited to perform
- Debt bondage in which child believes that he/she owes a debt to employer or recruiter
- Discrimination on pay and perquisites
- Lack of a registration book with details on child labourers
- Unregistered business
- Lack of labour agreements/contracts

Presumption of Age

It may be very difficult to identify the age of a child victim. Documents may be false, a child may not have a birth certificate and a child who has experienced trauma or difficult life circumstances may appear older than his or her true age. If there is no birth certificate available, other methods could be used to determine the child's age. For example, school records, religious records (such as a birth certificate), a medical examination, an insurance policy or a testimony by certain people in the community. Even an vaccination record can contain certain indicators about the age of the child.

Where the age of a child is uncertain and there are reasons to believe that the victim is a child, the **presumption** should be that the victim is a child, pending verification using methods that will not place the child or family in danger or abuse their confidentiality. The victim should be provided all available child protection measures.

2.2

Crime Scene Examination: The Basics

What is a Crime Scene?

A crime scene is any physical location that may contain evidence of past activities or events that might be useful to an investigator and, ultimately, a prosecutor building a case. "Crime scene examination" is a technical and scientific approach to examining the crime scene.

Examples of Common Crime Scene Locations in Child Labour Cases:

- A factory
- A farm, fishery, or plantation
- A construction site
- A shop or market
- The street (garbage scavenging, scrap metal collecting, peddling goods and services, begging, vending, etc.)
- A hotel, night club, or brothel
- A house (domestic work)

Source: United States Department of Labor's 2016 Child Labor and Forced Labor Report (Jamaica)

Types of Evidence

There are many types of evidence that may be found at a crime scene. These types of evidence include physical, documentary, and electronic evidence.

DOCUMENTARY EVIDENCE

Most evidence is in the form of **documentary evidence**, such as letters, photographs, contracts of employment, birth certificates or employee time sheets. Documentary evidence can provide important information about a child labor victim (such a hours worked, a child's age, or the terms of an employment contract).

Documents contained in a vehicle such as receipts for gas, parking tickets, licenses, and insurance certificates can help identify suspects. Documents may also contain other physical evidence on them, such as fingerprints, saliva, and other traces of biological evidence that can link individuals to the crime scene.

PHYSICAL EVIDENCE

Additionally, a crime scene may contain **physical evidence**. For example:

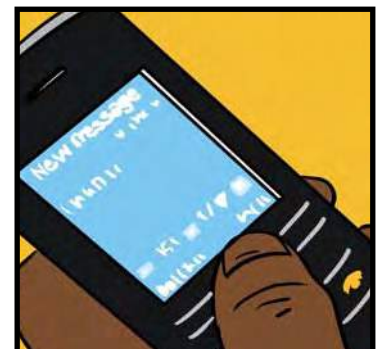
- Tangible objects, such as machines, tools, piece of clothing, computer, etc.
- Biological materials, such as fingerprints, blood, skin cells, teeth, hair, saliva, fingernails, urine.
- Injuries, such as cuts, bruises, scars, broken bones.



ELECTRONIC EVIDENCE

Computers, cell phones, and other information technology (IT) equipment often contain valuable **electronic evidence** in documents or emails, including details of financial transactions, working hours or records of contacts.

IT equipment is also likely to have physical traces on it, such as fingerprints that may allow individuals to be linked to the equipment.



Surveying the Crime Scene

Whenever you enter a crime scene you should make initial observations about the overall setting – for example, does it seem to be a place conducting a business where child labour is frequently used? Are the working conditions dangerous? Are there children at the scene? If your investigation of the crime scene is based on a tip or previous interviews with child labourers or witnesses, you will be looking for evidence that corroborates those accounts, including information you obtain from individuals at the scene.

The following are some examples of evidence that you may find when examining a child labour crime scene.

Evidence of a Child's Age:

- Birth certificate, ID or passport
- School certificate
- Baptismal record
- Certificate signed by a physician
- Sworn statement of the parents
- Dated pictures or other documents

Evidence of a Child's (Conditions of) Employment:

- Employment contract
- Paycheck
- Documents containing work schedules, time sheets, assigned tasks or reprimands from employer
- Internet sites used for recruiting children
- Witness statements

Evidence of a Negative Impact on the Child's Education:

- Documents attesting absence from school
- Documents showing that the child is working during school hours (e.g. time cards or attendance sheets)

Evidence of Hazardous Work (a Worst Form of Child Labour):

- The workplace is underground, under water, at dangerous heights or in confined spaces
- Employment contracts, witness statements, emails or other forms of communication and work schedules may demonstrate that:
 - The work involves handling dangerous machinery, equipment and tools;
 - Involves the manual handling or transport of heavy loads;
 - The working environment exposes the child to hazardous substances, agents or processes, or to high temperatures, noise levels or vibrations;
 - The working conditions are particularly difficult (e.g. long hours, night shifts or unreasonable confinement to the premises of the employer)

Surveying the Crime Scene (cont.)

Evidence of Other Worst Forms of Child Labor:

- Evidence of conducting an illicit activity
 - Documents, substances or objects suggesting an illicit activity
 - Presence of firearms
 - Large amounts of money around the premises
 - Presence of drugs
- Sexual exploitation
 - Documents or electronic records that show prices for sexual services
 - Internet sites used for recruiting victims or selling sexual services
 - Sex toys, sexual implements, lubricants, etc. – these may be evidence themselves, but may also have traces of biological evidence that could link them to individuals
 - Evidence of rape and/or sexual activity (including traces of semen, hair, or blood on victims, and on bedding)
- Slavery or similar practices
 - Visible injuries
 - Absence of employment contract, work timesheets or paychecks
 - Documents suggesting unreasonable working hours
 - Locks only on the outside of doors
 - Bedding and signs that employees live at the work site



2.3 Documenting the Crime Scene

Before any evidence is collected, the crime scene should be thoroughly documented. The documentation process begins once the first officer or first responder arrives at the scene, and may include photographs, sketches, video, notes, and other means of depicting how the crime scene appeared at the moment the investigation begins.

Photographing a Crime Scene

A crime scene should be documented by taking photographs of the scene and the surrounding area. Be sure to photograph the scene as a whole and then photograph each piece of evidence. Accurate photographs will document the crime scene and evidence when it was originally found and the relations of objects to one another, before any evidence was moved or removed for inspection or analysis. Photographs can also document items that are essentially impossible to preserve any other way – such as footprints or tire tracks.

It may be useful to have an instant camera available. For example, an instant photograph of a shoeprint at a crime scene could be provided to investigators who are preparing a search warrant for a suspect's residence. The photo will show them the type of shoe for which they are searching. Similarly an instant photo of a tire track could help identify the car and, ultimately, perhaps its owner.

NOTE: It is likely that individuals will be present when you first arrive at a child labor crime scene. Remember to record who is present, what they are doing, and what they are wearing. Make a note of visible injuries. Ideally, these details should be photographed, although taking photographs of individuals requires sensitivity due to confidentiality. Documents and objects that might be seized (e.g., drugs or computers) should also be photographed on site before they are removed.



Use the same pattern to photograph each crime scene you encounter. For example, photograph the scene (and any evidence) first facing north, than east, than south, than west. That way, when you are called to testify about your investigation, you can testify to your usual practice feeling confident about the order of the photographs and investigation.

Sketching a Crime Scene

each piece of evidence is in relation to everything else in the scene, including detailed measurements that are harder to show in photographs. A sketch may also be useful to show a “birds eye” view of the entire crime scene in a way that photographs cannot easily capture.

After the sketch is complete, the officer who draws the sketch should sign and date it.



Note Taking

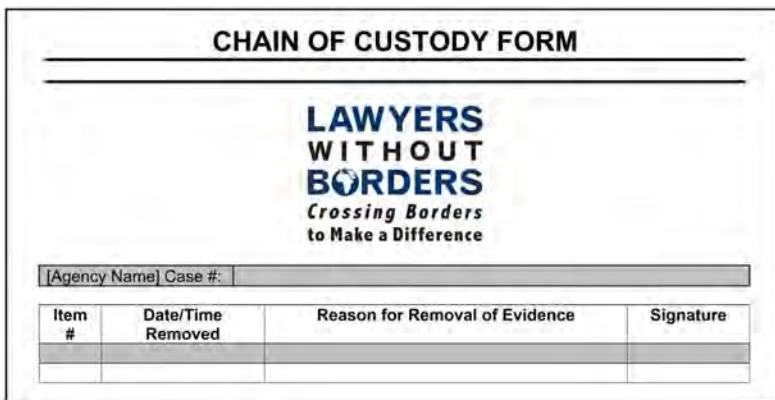
In addition to visual depictions of the crime scene, the investigator should take detailed notes about observations made at the scene. These notes should include the following:

- Time and date
- Individuals present and persons entering and leaving the scene
- Signs of activities
- A description of the scene, with the location of the physical evidence
- Physical evidence recorded, including who discovered it and who packaged it
- The names of photographers and others involved with documenting the scene

Why is Documenting the Crime Scene Important?

It is important to document a crime scene because officers and other personnel who worked there may be asked to testify in court about details and activities at the crime scene, and relying on memory for this purpose may be inadequate.

Documentation also helps establish the **chain of custody** for evidence. The chain of custody is a record of the order of places where a piece of physical evidence was located, and each person who handled the evidence, from the time it was collected to its submission at trial.



The image shows a 'CHAIN OF CUSTODY FORM' logo for 'LAWYERS WITHOUT BORDERS' with the tagline 'Crossing Borders to Make a Difference'. Below the logo is a form with a header field for '[Agency Name] Case #' and a table with four columns: 'Item #', 'Date/Time Removed', 'Reason for Removal of Evidence', and 'Signature'. The table has two empty rows for data entry.

It is critical to document an unbroken chain of custody to ensure the physical security of samples, data, and records of a criminal investigation. The conditions under which the evidence is gathered, the identity of all evidence handlers, the duration of custody, the conditions of handling or storing the evidence, and the manner of transfer each time evidence is moved (plus the signatures of persons involved at each step) should be documented. Documenting everyone who has had access to evidence

between collection and the trial will establish that the evidence offered in court is identical to what was found at the crime scene. If this is not done properly, defence counsel could later argue that the evidence is not reliable or that it might have been tampered with. This could result in the court excluding the evidence at trial.

A crime scene should also be documented for the following reasons:

- Photographs and other forms of documentation will help others who are not present (i.e. a judge or magistrate) visualise the scene
- Documentation provides a record of everything that occurred at the scene after investigator's arrival (i.e. who entered the scene and what they did)
- Documentation will form the basis of the formal report that you may need to write about the crime and the investigation, and will provide the basis for charging
- The notes and visual documentation will aid your preparation for testimony at trial



- Without clear, comprehensive labeling, evidence can be mismanaged or lost.
- A properly labeled evidence container is the critical first step in establishing and maintaining the chain of custody.
- The identifying information will travel with the evidence each time it is moved or accessed until the day it finds its way into the courthouse for the trial.

Evidence should be:

- Handled by as few people as possible
- Photographed
- Handled with gloves (when possible)
- Placed in its own labeled bag
- Entered into the log book
- Signed out each time it is examined by someone
- Signed in when returned
- Kept in a safe place, such as a locked cabinet or drawer

Evidence containers (or bags) should be used in addition to gloves to preserve the integrity of the crime scene and evidence. Officers should ensure that there are enough **clean** evidence bags available to store each individual piece of evidence separately. The size of the bags you use will also depend on the type of physical evidence. Storing evidence in separate bags is necessary to prevent “cross-contamination”, which occurs when traces left from one piece of evidence, such as blood drops or finger prints, are transferred accidentally to a second piece of evidence. If this were to occur, the investigation might be frustrated and evidence might be excluded from the case in court.



Labeling Evidence:

Evidence bags must also be labeled. This is the first step to properly document the evidence to ensure its admissibility in court. Evidence labels should include:

- The time, date, and location of collection
- A description of the contents including unique markings
- The exact location where evidence was found within a crime scene
- The name, signature, and ID number of the collecting officer



Documentation of crime scene evidence should be recorded chronologically, with no alterations or gaps. The record should be signed and dated by each person who transfers the evidence onward.

Source: *United Nations Office of Drugs and Crime, Anti-Human Trafficking Manual for Criminal Justice Practitioners*



Question

Why do you think it is important to take notes while examining a crime scene? How could failing to take notes to document the crime scene interfere with the outcome of the case?

2.4

Securing the Crime Scene

How to Secure the Crime Scene

When investigating a child labour case, it is important to secure the crime scene, to ensure that it remains intact and that no evidence is compromised, removed, or altered. Upon arrival, you will initially determine how large the area is that needs to be secured and protected, though this may be revised as you learn more about the case. The area should be secured by roping or taping it off with crime scene tape or some other physical barrier to control access to the scene.

Only authorised personnel should be allowed access to the scene and best practice is to have only one entry point. This entry point should be controlled by an officer, who should record each person that enters and exits the scene, and list anything that any person removes from or changes at the scene.

The first officer(s) to arrive at the scene should ordinarily secure it. However, the first responding officer may face unique challenges upon arrival. For example, the officer may find that a child requires emergency assistance, or the officer may need to arrest a suspect. Therefore, it is important to establish priorities. In addition to securing the crime scene, these priorities may include ensuring the safety and care of children, collecting relevant evidence, arresting suspects who are present, and searching for any available witnesses.

Crime Scene Organisation:

- Assign roles and responsibilities to those who are managing the crime scene
- Evaluate the crime scene first, then decide what needs to be done to manage the crime scene
- Depending on the size of the crime scene, you may want to appoint someone who will supervise the entire crime scene, or consider getting assistance from specialized evidence experts such as fingerprint or DNA experts
- Develop a means of communication between those who are managing the investigation and those who are examining the scene

Source: *United Nations Office of Drugs and Crime, Anti-Human Trafficking Manual for Criminal Justice*

Protecting the Integrity of the Crime Scene

In addition to securing a crime scene, there are additional steps that officers should take to protect the integrity of a crime scene. “Protecting the integrity of the crime scene” means to make every effort to preserve the site and the things found in it so they remain unchanged from their original condition when first discovered. One of the most important ways to protect the integrity of the crime scene is take strict anti-contamination measures. The United Nations Office of Drugs and Crime prescribes several measures to do this in its manual *Crime Scene and Physical Evidence Awareness for Non-Forensic Personnel*, including the following:

- Wear protective clothing and gloves at the scene to prevent evidence contamination
- Avoid going back and forth between two different crime scenes to prevent cross-contamination of the scenes
- If there are multiple crime scenes, separate investigation teams should document each scene
- Mark a single pathway for entering and exiting a scene
- Do not eat, drink, or smoke at the scene
- Avoid moving anything or anyone from the scene
- Leave nothing loose on your person or clothing that could fall off and contaminate evidence

Things to Consider About Child Labour Crime Scenes

There are a number of other considerations that law enforcement officers should be mindful of when examining child labour crime scenes, including:

- Be aware of the health and safety risks to investigators that may be posed by some crime scene locations such as construction sites and brothels (i.e. unsafe structures, firearms, infectious disease, etc.)
- Be aware that crime scenes may be contaminated by the traces of many individuals who may have been at the scene due to the nature of child labour. For example, you may find a lot of fingerprints, especially in a site with many people such as a factory. Some evidence might be relevant (e.g., the suspect’s biological traces), but others may simply reflect the nature of many people passing through this type of location. Therefore, be prepared to conduct a detailed and perhaps lengthy crime scene investigation
- Be prepared to determine which persons at the scene are victims. Be ready to identify workers who are children
- Collect all evidence relevant to prove a child labour case and corroborate victim and witness testimonies



Question

What are some ways that evidence can be disturbed once the boundary has been secured?

Answer: Eating and drinking in the crime scene; smoking, high winds, rain, unauthorized or careless personnel

2.5

Collecting Evidence from People

Unlike many other types of crime scenes, it is common to find people at a crime scene in a child labour investigation. It can be difficult to know which of those people might be child labour victims, suspects, or innocent bystanders.

There are many cases where biological evidence such as blood, hair, urine or semen could be useful evidence for a child labour prosecution. Some examples include:

Labour Exploitation

Evidence may be used to:

- Link a piece of equipment or tool to an individual through fingerprints, hair, etc.
- Link a victim's injuries to a particular type of equipment
- Establish that an individual slept at the work site



However, you must exercise caution when attempting to collect such evidence from human beings. Some considerations include:

- Establish what the victim's account of events before starting an examination for physical evidence, which will help you identify what evidence might corroborate his/her account. Finding out what is being alleged should, however, be balanced with the need for the prompt recovery of evidence which might be rapidly deteriorating
- It may not be clear who is a suspect or victim
- Too much time may have passed to recover biological evidence

Careful attention to these principles can help you build a strong case for the prosecution.

It may be difficult to identify the age of a child labourer. Documents may be false, a child may not have a birth certificate, and a child who has experienced trauma or difficult life circumstances may appear older than his or her true age. If there is no birth certificate available, other methods could be used to determine the child's age. For example, school records, religious records (such as a baptism certificate), a medical examination, an insurance policy or a testimony by certain people in the community could be used. A vaccination record can also contain certain indicators about the age of the child.

Where the age of a child is uncertain and there are reasons to believe that the victim is a child, the **presumption** should be that the victim is a child, pending verification using methods that will not place the child or family in danger or abuse their confidentiality. The child should be provided all available child protection measures.

Tips for Collecting Physical Evidence From Children

- If possible, record the general scene (noting where an individual was found and what he or she was doing, with cameras and videos, drawings and/or written descriptions) before taking biological evidence
- Always maintain the child's privacy and dignity
- Make a note, draw, or photograph the victim showing visible injuries, clothing, where the child was initially located, and noting if possible what equipment, computers, phones, etc., they had access to at the crime scene. Be aware that showing a child's face may cause problems of security for the child, and may reduce the chances of his or her cooperation
- Clothing may be available for examination
- Take precautions to avoid cross-contamination
- Obtain samples from the child—particularly fingerprints, hair, and DNA samples. These will be needed to link victims to locations
- Similar techniques should be employed when examining potential suspects. Keep in mind legal requirements about searches and seizures of evidence from potential suspects
- Cross-contamination may be inevitable when suspects and possible child labourers are found together. Try to ensure that searches of both groups of people are conducted by separate professionals
- Try to keep suspects and possible child labourers as separate as possible – not only to avoid cross-contamination of evidence, but also to prevent intimidation
- ALWAYS consult experts about whether or not a physical specimen examination should take place (with victim consent) and, if so, what type of exam is most appropriate
- ALWAYS have an expert conduct any intimate exam



Chapter Summary

Evidence is necessary to convict employers of child labourers; therefore it should be collected, preserved, and handled with care. In this chapter, we learned the importance of securing and protecting the integrity of a crime scene in order to prevent compromising, contaminating and destroying the evidence. We learned how to secure a crime scene using rope, tape, or some other means of fixing a boundary. We considered some ways to document a crime scene, such as drawing sketches, and taking photographs and notes. We learned about the various forms of evidence that can be discovered in a child labour case, and how to collect evidence properly, using tools such as gloves and evidence bags, which must be properly labeled. This chapter included a discussion of evidence documentation and its relevance to establishing the chain of custody. Finally, we discussed special challenges in obtaining evidence from human beings.

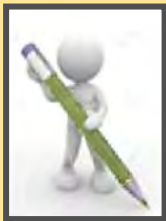


Case Study

Consider the following case:

You are investigating an anonymous tip you received about a family in Kingston that may be exploiting a teenage girl for domestic labour. The informant tells you that he only knows the family to have two male children, but in the past few months, he began seeing a teenage girl at the family's home, which suggests that she is not their child. The informant sees the teenage girl arriving in the morning and leaving in the afternoon. In response to the tip, you gather your team and proceed to the family's home to investigate the case to look for evidence of child labour.

When you finish reading, answer the questions that follow, then discuss your answers as a group.



1. If it is established that the family's home is the scene of a crime, what must be done to secure the crime scene?

2. What types of evidence of child labour could you potentially find in the family's home?

3. How should this evidence be collected and handled?

4. What measures can you take to document the evidence?

Chapter 3: Interviewing and Working With Victims

In this chapter, you will learn general principles and best practices for providing assistance to victims and securing their protection, which include considering and providing for their immediate needs, such as food, shelter, and healthcare, as well as ensuring their safety..

3.1 Victim Protection and Assistance

Guiding Principles for Working with Victims of Child Labour

Police and others working with victims of child labour should always follow the guiding principles of the Child Care and Protection Act, from the time a victim is identified to the time they are reintegrated into society:

- **The Best Interest of the Child:** The child's best interest, its safety and well-being should be a primary consideration in all actions affecting children. Determining what is in the child's best interest requires considering factors related to the child's circumstances as well as the family or caregiver's circumstances and capacity to parent, with the child's ultimate safety and well-being as the primary concern.
- **Non-Discrimination:** Children should be treated equally. Services should be provided without discrimination as to age, sex, religion, clan, ethnicity, wealth, language, nationality, status, political opinion, culture, or other categories.
- **Survival and Development:** All children should be provided with an environment that enables them to grow and develop to their full potential. This includes providing skills and resources, protection from neglect, exploitation, and abuse. The child may need to other services to ensure the child's health and development.
- **Participation:** All children have the right to express their views freely and to participate fully in their service delivery and care. Children's views should be given importance in accordance with their age and level of maturity.
- **Child-sensitive:** All children should be treated in a caring and sensitive manner. Every child labour case is different and requires consideration of the child's personal circumstances and immediate needs, age, level of maturity, and respect for their physical, mental and moral integrity.

Children should be ensured **safety and security** and **confidentiality and privacy**. This includes safeguarding information that could lead to the identification of the child victim or his or her family members (unless violation of this principle is necessary to ensure the well-being and protection of the child and informed consent has been obtained). Children should be provided **information** about available services and potential risks in a child-friendly manner. They should always be treated with **respect** and be provided **quality** services by experienced professionals in a collaborative and interdisciplinary manner.

Source: Jamaica Child Justice Guidelines from the Office of the Children's Advocate, 2013.

What Child Labour Victims Need

While prosecuting child labour offenders is a very important goal for police officers, it is equally, if not more important duty to protect victims of child labour. Child labourers have often been unable to access education regularly and may have been exposed to hazardous work. Investigators should consider the circumstances and determine what needs each particular victim has and the best steps to take to address them. Victims' needs can be divided into two categories: immediate needs and long-term needs.

Immediate Needs: Immediate needs are those items or services that should be provided right away to help victims recover, such as food, water, clothing, first aid treatment, and physical safety. The stakeholders who first identify a child labour victim should meet the needs they can and help the victim get immediate assistance from another source, such as a hospital or doctor. Efforts should be made to help children re-enroll in school or vocational programs.



Long-term Needs: Long-term needs are items or services that victims need during the weeks, months, and years following their experience as child labourers (most commonly in WFLC) in order to fully recover. Examples of long-term needs include services such as health/medical care, counseling, legal representation, and social services. Often these needs cannot be provided for by the first responders but they can help victims find the sources that can provide for their long-term needs.



Victim Traumatization

Children subjected to the Worst Forms of Child Labour may have been exposed to threats, force, or violence and they may also have been deprived of physical, mental, moral, social, and economic resources. Victims of child labour may find their entire lives being controlled by their supervisors. In extreme cases they may be told when to eat, sleep, and work, where they can and cannot go, and who they can and cannot communicate with. Child labour supervisors may also retain control over victims even after their exploitation ends by subjecting them and their families to threats either in person or by phone. As a result, victims of the Worst Forms of Child Labour often suffer from trauma or post-traumatic stress disorder (PTSD). PTSD is a mental disorder that is caused by exposure to traumatic events. Symptoms of PTSD or trauma can last long after a victim has been freed. These symptoms include shock, fear, anxiety, anger, grief, depression, suicidal thoughts, and engagement in risky behaviours such as drug and alcohol abuse.

Victims may remain fearful for a long time after leaving their exploitation. The mental strain of speaking with individuals working on their case and making decisions about their lives may re-traumatise them or lead them to becoming victimised again. Therefore, it is important to restore victims' feelings of comfort, safety, and control. It is also important that police are aware of the effects of trauma and how it may affect their interactions with victims. Victims may be hesitant to cooperate during an investigation and may express hostility towards an interviewing officer. Victims may also have difficulty remembering events and may change their story multiple times. They may even appear irrational, anxious, or disoriented.

Before interviewing a victim of child labour who has likely experienced trauma, officers should work with health care and social service providers to stabilise the victim. These professionals can provide physical and mental health treatment and counseling services. Victims should be interviewed in a safe and comfortable environment and officers should conduct interviews in plain clothing to remove the threat or appearance as an intimidating authority. You can also help restore a victim's sense of control, for example, by taking small steps such as giving a victim the opportunity to choose his/her own meal when it is offered during an interview. In addition, you should take measures to minimise or remove the threat of harm to victims and their family members when applicable.

Safety and Security

Victim and Witness Intimidation

Intimidation is a great threat to victim safety and a factor that jeopardizes successful investigation and prosecution. Victims may be fearful of cooperating during an investigation or prosecution because they have been intimidated into not trusting the police or because they fear physical harm to themselves and/or their loved ones. Intimidation may include direct physical violence, threats, emotional manipulation, or indirect intimidation, such as harassment by the perpetrator's defence counsel.

Safety Responses to Intimidation

- 1. Collaborate:** Develop a coordinated justice system response to victim intimidation that begins from the time the incident or crime is first reported, up until the time the offender is released.
- 2. Build trust:** Build trust within local communities to encourage reporting incidents of crime, including intimidation.
- 3. Educate victims:** Victims should be informed about what intimidation looks like and how to respond to it.
- 4. Educate justice sector actors:** Criminal justice system actors should be knowledgeable about victim intimidation and safety.
- 5. Remain consistent:** Ensure that there is always a team that works consistently with victims to build their trust and meet their needs.
- 6. Implement Safety Measures:** Develop safety measures such as increased police patrol in communities and relocate victims to safe spaces and environments.
- 7. Create information sharing policies:** Consider creating a system or database that allows case information to be shared with other law enforcement agencies and justice sector actors.

9. Track progress: Track your progress by monitoring the effectiveness of your efforts to protect victims (i.e. gathering information such as victim attitudes towards the criminal justice system’s ability to protect them).

Source: *The Justice Management Institute and Aequitas—The Prosecutors’ Resource on Violence Against Women.*

Best Practices in Victim Safety and Security

Do No Harm

- Child labour can be a traumatising experience — do not make it worse for the victims
- Government agencies have an ethical obligation to assess potential harm to victims
- If you believe that an interview or intervention will make the victim worse off, it should not be undertaken

Informed Consent

- Victims should give consent to all decisions regarding their care and support, based on adequate information so that the consent is truly informed and voluntary
- All services and support, including returning home, should be provided to victims ONLY with their consent

Assess Safety

The danger to the victim may depend on several factors, including:

- The employer’s perception of how damaging a victim’s testimony may be;
- The employer’s propensity towards violence and extent of the employer’s network

Address and plan for each victim’s safety, be prepared to act quickly if needed.

Continuing and Comprehensive Care

Victims of WFCL may need a wide range of services to recover and reintegrate into society, which should continue after a child returns home. These services may include **emergency and long-term shelter, legal guidance, food and clothing, access to health care, counseling, livelihood options, and access to education.**

Confidentiality and Right to Privacy

- Confidential information should only be disclosed with the child labourer’s prior knowledge and informed written consent
- Only conduct interviews when necessary, limit information to those with a “need to know”
- All relevant information should be kept confidential and secure by the agencies involved
- The media and journalists should only be allowed access to victims after conducting a satisfactory risk analysis and upon receiving the victim’s informed consent.

Self-Determination and Participation

- Government agencies should recognise the victim’s right to make decisions regarding his or her care and support and victims should be encouraged to participate in decision making
- Provide care and assistance in a language and manner that is understandable, using interpreters if needed

Non-Discrimination

Assistance should be provided to victims without discrimination on the basis of gender, age, disability, social class, race, religion, language, political beliefs, nationality, or immigration status.

3.2 Coordinating with Service Providers

Role of Service Providers

Service providers can be extremely helpful in providing assistance to child labourers. In successful cases around the world, police officers have conducted rescue operations with the assistance of government, NGOs and social workers, who can ensure the safety of rescued victims and provide immediate assistance. Bringing social workers into a case allows the police to focus on making arrests and gathering witnesses and evidence, while social workers focus on the needs of the victims.

NGOs

Non-governmental organisations (**NGOs**) are organisations that are not a part of any government and are not businesses that seek to make a profit. Instead, NGOs pursue social goals, such as helping victims of illegal child labour get back on their feet. NGOs often help by providing medical care, coordinating housing, or supporting victims through prosecutorial procedures.

Social Workers

Social workers are professionals who seek to improve the quality of life for individuals, groups, and communities. Through research, community organizing, direct practice, and teaching, social workers intervene on behalf of the poor and victims of social injustice or human rights violations.

In Jamaica, the Child Protection and Family Services Agency (CPFSA) operates under the Ministry of Education, Youth and Information (MEYI). They coordinate with the Office of the Children's Advocate, Jamaican Constabulary Force (JCF), among others. The CPFSA works to provide support for families in crisis, advise the government on policy/legal issues and prevent child abuse, among a multitude of other tasks.



Social workers can explain to victims what is happening and what will happen next. They can make victims feel safe and assure them that they are not being arrested. Also, they can support children through interviews and the investigation, and help child labourers prepare their statements should they decide to cooperate in the prosecution. Social workers can be very helpful to police in obtaining information on the personal background of the victims, as well as other critical information related to the investigation, because they can win children's trust and confidence more easily. This can strengthen child's confidence participate in the prosecution of his or her employer.

3.3 Interviewing Child Victims

If there are indicators of child labour, it will be important to speak with the child to determine whether or not the child is a child labour victim.

Children are often reluctant to speak with police or other authority figures. A child may be frightened or confused. Often children do not self-identify as “victims of child labour” because children tend to be more compliant than adults and follow directions from adults in control without question. They also may not know what child labour is and that it is illegal. Without life experience, children may consider abnormal conduct to be “normal”, and may not know how to describe what has happened to them. Also, victims of child labour have sometimes been conditioned by their employers not to trust anyone – especially police.

Given these challenges of interviewing children, it is strongly recommended that whenever possible, children be interviewed by a specially trained professional. Where that is not possible, some basic guidelines are suggested to help improve your prospects of conducting a successful interview with a child victim.

Basic Principle: *The best interests of the child should be considered at each stage.* You must assess a child’s suitability for questioning, such as their individual needs and skills including language, health, and maturity. Interviews should not take place until the basic needs of the child have been addressed, including health, sleep, and food. Doing this is not only supporting the rights of the child but also helps you obtain the best possible evidence.

Preparing to Interview a Child

- If you do not have special training in child interviews, consider getting support from a victim service provider or social worker.
- Interviewers should be of the same sex as the child if feasible (particularly if the victim is a female child).
- If possible, use interviewers and translators from the same cultural background as the child. If possible, do not change interviewers and translators, as change is likely to confuse or scare the child.
- When practical, the interviewers should not wear uniforms.
- Do not conduct the interview at the location of employment or where the child was found.
- Have someone present at the interview to support the child (e.g. social worker). No one who is or may be connected to the crime of child labour should be present.
- Create an informal, welcoming, child-friendly environment to conduct the interviews (i.e. toys, games, books, etc.).



Conducting the Interview

- Build trust with the child. Use open, friendly gestures.
- Begin with questions unrelated to the child labour.
- Explain why the interview is taking place and what will happen (including why recording equipment is there) and introduce all people who are present. Failing to tell the child what is happening can cause stress and affect the child's cooperation. Make sure the child knows that everything done is in his or her best interest and that everything will be done to prevent any further harm.
- Use child-friendly language and explain things in a manner the child can understand, adapted to the child's age and maturity. Pick up terms the child uses. Check that the child understands what you have said.
- Talk to the child at his or her eye level.
- Use open-ended questions and avoid leading questions (for example, ask "What did the person do to you?" rather than "Did the person abuse you?"). Children may be particularly susceptible to suggestion.
- Children often want to be liked and may give only answers they think will please the interviewer. Emphasise that it is okay for the child to answer to the child's best ability and recollection, and let them know that responding "I don't know" is also fine. After explaining you can test this by asking a question the child does not know the answer to. For example, you can ask "What did I eat last night?".
- Do not press the child too hard for further detail. You risk further traumatising the child and destroying further chances of getting information. Even brief descriptions may be valuable evidence.
- NEVER ask a child to demonstrate what happened to them on themselves or on another person present (including the interviewer).
- Make sure to account for extra breaks children are likely to need more than adults.
- End the interview in a way that reassures the child that she/he has done well. Praise them for their effort and not for the content.
- Give the child an opportunity to add information and to ask questions.



Special Interviewing Considerations by Age:

Ages Three to Five Years:

- May lack the ability to understand the perspective of others
- May lack ability to draw inferences
- May over-extend (e.g., all vehicles are cars)
- May under-extend (e.g., misunderstanding words like abuse)
- Often very literal: ask about concrete things
- Often confuse pronouns: use proper names (e.g., don't ask if "he gave you tasks", ask if "Robert gave you tasks")
- Reinforce child's ability to say "I don't know"

Ages Six to Ten Years

- May still struggle to understand others' perspectives
- May still over- and under-extend
- Nearly comparable to adults in ability to observe and recount events
- May need help understanding questions

Sources: *OCD handbook on justice in matters involving child victims and witnesses of crime*; M. Keller-Hamela, *Nobody's Children foundation, The Child Interview. Practical guidelines*; Office of the Children's Advocate, *Child Justice Guidelines*

Best Practices

General Tips:

- Do not interview a child until their basic needs have been provided for (i.e. food, clothing, shelter, medical examination, psychological assessment, etc.).
- Use a child-friendly room: a private and comfortable place
- Videotape or record the interview so that the child is only interviewed once if possible.
- Ask neutral questions first.
- Treat them with dignity,

Attention Span:

- Take frequent breaks.
- Pay attention to signs that the child is having difficulty paying attention (i.e. fidgeting, playing with objects, asking for questions to be repeated).

Timing of an Interview:

- Consider interviewing children in the morning when they are most alert.
- Keep interviews short (no more than 30 minutes for children up to five years of age).
- Take meal time and nap time into consideration.
- Do not hurry the child if he/she is not ready to talk. Better arrange for another meeting.

I don't know:

Keep in mind that children may think that adults have answers to everything and that they may be afraid to say they do not know the answer. They might not even consider this reply as an option if you don't clarify it. Therefore it is important to explain that it is okay to say "I don't know".



Question

What are some things that you should keep in mind when preparing to interview a child victim and when conducting the interview?



Group Discussion

What are some ways that you can help make a child feel more comfortable during the interview process? Discuss with the group.

Suggested Talking Points: Offer the child food and water. Start by asking questions unrelated to the victimisation. Continue to remind the child that you are here to help them. Avoid wearing a uniform so as to appear more approachable and less authoritative.

Source: UNOCD handbook on justice in matters involving child victims and witnesses of crime.



Case Study

Consider the following case:

There is a large, company owned, sugar farm that you pass on your way to and from work each day. You notice that some of the workers appear to be older children who are cutting cane. Other workers, including those appearing to be older children, are carrying cane once it is cut.

When you finish reading, answer the questions that follow. Lastly, discuss your answers as a group.

1. Do you think child labour exists in the scenario presented above?

2. What specific details made you come to that conclusion?

3. What would you do in this case?



Chapter Summary

This chapter focused on the role of different stakeholders in protecting victims of illegal child labour. We learned how they can receive the support and resources they need. We also discussed the role that service providers play in protecting child labourers, and how we can use these resources to further protect and provide for child labourers. Finally, we learned best practices for interviewing children to protect them from retraumatisation while supporting prosecution.

Chapter 4: Testifying in Court

People involved in a child labour case are often called upon to testify in court, usually by the prosecution. This chapter is designed to provide you with helpful tips and suggestions on what to do and what to expect if you are called to testify. These tips are intended to help you be a more effective witness for the prosecution. After reading this chapter, you should feel more confident in your ability to testify as a witness in the prosecution of a child labour case.

4.1

Preparing to Testify

What to Expect

Testifying in court is an important part of the criminal justice process. Your testimony is a formal statement that you will make orally in court, under oath, telling the judge about your involvement in the case. It is your account of what happened, and might include your interactions with witnesses, evidence, and the accused; how evidence was handled, collected, and processed; and other information about which you have first-hand knowledge.

Many people find that testifying in court is one of the most stressful parts of their job. Being well prepared and following a few tips will make you a more effective witness.

What to Do Before Going to Court

Review your report and case notes. Often, a lot of time has passed between the time you were involved with a case and when the case reaches court. You may have worked on many other cases in between, and you may not remember all the details of the case. It is essential that you read your report to refresh your memory. Read the report before you meet with the prosecutor so you can discuss it with him or her as you prepare your testimony. Read it again the night before the trial so that when you are on the witness stand you will be comfortable testifying.

Make sure to **meet with the prosecutor** before the court date to prepare. You will need to explain to the prosecutor what happened and point out important details. This will help the prosecutor ask the right questions in court. This is also an opportunity for the prosecutor to explain to you what you should expect, and to preview what the defence counsel is likely to ask you. Go over the case and the documents with the prosecutor and try to identify any weaknesses. By knowing which aspects of your report or the case may be vulnerable, you may be able to address any issues in your testimony. For example, if you find you made a mistake in your report, you will be prepared to address that.

Practice before you testify. Go over your testimony in front of a mirror, or preferably with the prosecutor or someone else familiar with the case. If something new comes up between the time of your meeting with the prosecutor and the trial – or even after the trial begins – be sure to tell the prosecutor anything he/she should know.

General Tips for Preparing for Court:

- Dress professionally in a clean uniform or other neat clothing
- Be on time
- The court day is likely to last a long time, so mentally prepare yourself for a long day

4.2

Taking the Witness Stand

Testifying under Oath

Before questioning begins, you will be sworn in and asked to take the witness stand. Your testimony will be given under oath. The oath you take at the beginning of your testimony in court requires you to tell the truth at all times. Government personnel are held to the highest ethical standards, and there is no tolerance for dishonesty. If you are not truthful, your testimony will be discredited and you will hurt the case. Equally important, your reputation will be tarnished and your employment could be in jeopardy.

Getting Sworn: Do you swear to tell the truth, the whole truth, and nothing but the truth?"

Examination in Chief

After you have been sworn in, the prosecutor will begin by asking preliminary questions such as “Can you please state your full name?” and “What is your profession?” The prosecutor will then proceed to ask you questions about your activities and your first-hand knowledge of the case. This step is called the **examination in chief** or **direct examination**. Examination in chief is the questioning of a witness by the party who called the witness to testify — in this scenario, the prosecution.

During the examination in chief, the attorney who called the witness is not allowed to ask “leading” questions. A leading question is one that suggests the answer the person who asked wishes or expects to receive. For example, “This is your report, isn’t it?” Instead, during the examination in chief, the prosecutor who called you must ask open-ended, non-leading questions. For example, “Can you identify this document?” This is one of the reasons why it is important for you to meet with the prosecution before your testimony to discuss what the likely areas of questioning will be, so that you are more easily able to follow the prosecutor’s questioning without the benefit of leading questions.

During the examination in chief, it is likely that the prosecutor will ask you questions that are designed to get you to describe all of your activities related to the case, including any role you had in the investigation; your role in gathering, documenting, receiving and maintaining evidence; the content of any report you have written; and your interactions with the child labour victim, defendant, or witnesses.

Cross Examination

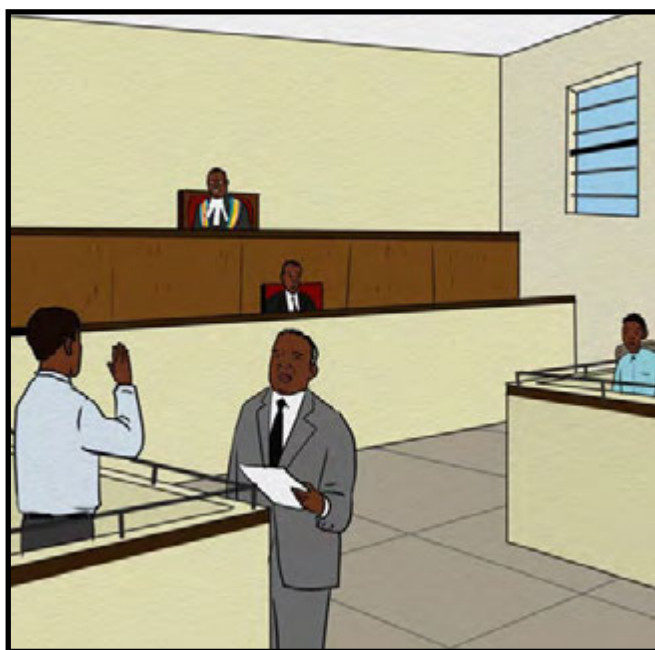
After the examination in chief, the defence attorney will have the opportunity to question you. This is called cross examination. This is the defence attorney's opportunity to question you about any inconsistencies or errors in your testimony or in your report or other documents that were introduced during your examination in chief. The defence attorney is also allowed to ask questions that may undermine your credibility or suggest that you are not testifying accurately or truthfully. Unlike the examination in chief, during cross examination the party who did not call you – i.e., the defence attorney – is allowed to ask leading questions. This means that you should expect aggressive cross examination by the defence attorney. *Do not let it upset you.* Do not become flustered or lose your temper. Remaining calm and respectful during cross examination will enhance your credibility as an impartial witness. Because the defence counsel can lead a witness for the prosecution, you must listen carefully and pay extra close attention to the questions asked.

Re-Examination

After the defence counsel has finished cross-examining you, the prosecutor may question you again. This is called re-examination. During this step, the prosecution is allowed to ask you follow-up questions. These questions will be based on the testimony you gave during defence counsel's cross examination. Quite often, this provides an opportunity for the prosecutor to allow you to clarify or expand on answers you gave in response to the defence attorney's questions, where your ability to respond had been limited to answering the defence attorney's leading questions.

General Tips for Testifying in Court:

- Be attentive. Make eye contact with the lawyers who are questioning you.
- When describing a crime scene, picture the scene to yourself to the best of your ability.
- Do not say anything about the case until you are actually on the witness stand.
- Do not exaggerate your responses or lose your temper.
- Be confident in your testimony, but not arrogant or cocky.
- Be calm and serious in the courtroom (e.g., avoid laughing and joking) and maintain control of your emotions.



Answering Questions in Court

Regardless of whether you are answering the prosecution's questions or the defence attorney's questions, the same general guidelines apply.

Things to remember when speaking in court

Think and know what you would say before you speak. Listen to the question and choose your words carefully. When you have said what you planned, stop and be silent. If you make a mistake when responding to a question, correct it immediately. Watch your body language. Sit up straight, but not stiffly. Do not slouch. Do not interrupt the attorney during questioning. Do not become emotional or defensive, and do not argue with the prosecutor or defence attorney. Under no circumstance should you argue with the judge. Always be polite and respectful to both the prosecutor and the defence attorney, as well as the judge.

Tips about the language you use in court

Speak slowly, clearly, loudly, and concisely. Do not rush through your answers. Try to avoid saying "I think," "I believe," or "In my opinion" when responding to questions.

If you do not know the answer to a question or cannot remember the answer, do not be afraid to admit this to the court. Be honest. If you do not understand the question, respond by saying: "I'm sorry, I do not understand your question," or "Can you please repeat the question?" Do not use profane language. When answering questions about distance and time such as "how long" and "at what time...", be sure to let the attorney know when you are giving an estimate (i.e. "I arrived at the scene at about 5:00 pm"), unless you do know the exact time or distance. For yes or no questions, do not respond by simply nodding or shaking your head. Respond by saying "Yes" or "No" aloud.

Answering questions in court

Do not volunteer information and be sure to answer only what is asked. Do not anticipate what you think the attorney is seeking; let the prosecutor or defence attorney do their job. If you volunteer detailed, lengthy answers for the prosecution and then are very reserved for the defence, you may appear to be biased. Do not offer your own conclusions or opinions unless you are asked to do so. If you are asked whether you have spoken with the prosecutor, victim, or suspect, respond truthfully.

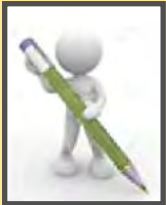
After You Testify

- Do not discuss your testimony until the case is completely over
- Do not talk to other witnesses about your/their testimony
- Unless specifically told to do so, do not speak to the media



Chapter Summary

This chapter began with a discussion on what to do to prepare for court. To ensure that you are ready to testify, you need to make sure that you **meet with the prosecutor** before the trial begins and take the necessary time to **review your notes** and case report so that you are adequately prepared to serve as a witness. After reading this chapter, you should also understand what an oath is and the importance of telling the truth. Finally, this chapter concluded with a discussion on tips and best practices for how to conduct yourself as a witness and how your demeanor on the witness stand can affect your testimony and your credibility.



Chapter Quiz

1. What should witnesses do to prepare to testify in court? Why is this important?

2. What are the consequences for being dishonest while testifying under oath?

3. How can meeting with the prosecutor before you testify prepare you for the examination in chief?

4. How should you respond when being cross examined by the defence attorney?

5. What are some examples of best practices and tips for answering questions in court?

6. At what point in the case are you allowed to discuss your testimony with third parties such as the media?

Chapter 5: Child Witnesses

Children are often called upon to testify in court in child labour cases, usually by the prosecution. This chapter is designed to provide you with helpful tips and suggestions on what to do and what to expect if you have to prepare a child to testify in court. After reading this chapter, you should feel more confident in your ability to prepare a child for testifying as a witness in the prosecution of a child labour case, and to prepare court staff for cases in which a child is involved.

5.1

Child Witnesses in a Child Labour Case

Children in Court

This section will help you preparing a child for trial. Being well prepared and following a few tips will make the child a more effective witness and will reduce the chances that testifying will be a traumatic experience for the child. During a trial, the presence of children may be limited to they are testifying as a witness, unless a judge determines that the child's presence in court for additional portions of the trial is necessary. *Source: The Child Care and Protection Act, 2004 Sec. 42(1).*

VULNERABLE WITNESSES

According to Jamaican Evidence Law, children are considered to be vulnerable witnesses. The law considers **every person under 18 to be a child**. As a consequence, different procedures and different evidence rules may apply. One should keep in mind that child witnesses thus are treated differently.

SPECIAL RIGHTS FOR CHILDREN

Children have rights that must be taken into account during the whole procedure. These rights are not only the responsibility of the prosecutor, but also of police officers, NGOs, social workers. These rights include:

- Right to be heard and to **express views**
- Right to be **treated with dignity and compassion**
- Right to be **informed of the status of the case**
- Right to be **protected from hardship during the justice process**

Source: The Evidence (Special Measures) Act, 2012; The Child Care and Protection Act, 2004; Child Justice Guidelines, Office of the Children's Advocate, 2013 and UNODC Handbook on Justice in matters involving child victims and witnesses of crime.

How Long Does it Take for the Court to Come to a Decision?

Child labour cases are serious offences, which is why the judicial system must do everything possible to prosecute the case within a reasonable amount of time. Since relatively few child labour cases have been prosecuted in Jamaica, it is hard to estimate how long such a trial will normally take. A 2014 report about the prosecution of children's rights violations showed that there was a growing backlog. Cases had been delayed for many years and some were dismissed because the files got lost or had been destroyed.

Source: Freedom House Report on Jamaica, 2014.

5.2 Preparing to Testify

What to Do Before Going to Court

Provide adequate information. It is important to provide child victims and their parents or guardians with information. This should begin starting at the time of their first contact with the justice system and then throughout the whole procedure. This information should be given in simple and clear language and should include aspects such as:

- The availability of health, psychological, social or other relevant services
- Procedures of the criminal justice system
- The specific times and place of hearings and other events related to the case.
- The progress of the case

Organise **orientation sessions** to be given by the Victim Support Unit. According to guidelines of the Office of the Children's Advocate, all child victims should receive two orientation sessions - one before their first court appearance and one before their main hearing.

Child witnesses should receive an orientation before the day they need to give evidence. The orientation is meant to teach the child about the court system in order to make him/her feel more comfortable, and this presentation must be adjusted to the age of the child. It is the responsibility of the prosecutor to contact the Victim Support Unit to arrange for an orientation session.

Take **the age of the child** into account when giving the orientation session. It is better to provide less information that the child understands, than to give too much information and confuse the child. The orientation should include:

- Explanation of the role and the function of persons present in court: the judge, defendant, complainant, attorneys, jury witnesses and court staff

The Victim Support Unit

The Victim Support Unit (VSU) is operated by the Ministry of Justice and was created to assist victims of an offence, to protect them and to serve their interests. Its tasks include advocating the victim's rights and providing emotional support.

The Victim Support Unit has the responsibility to coordinate a **multi-agency approach** when giving the orientation sessions. This means that they will communicate and work with the child, the parents or guardians and the other professionals involved in the case.

The Office of the Children's Advocate has non-binding guidelines the emphasise the role of the VSU.

- Explanation of the important parts of the trial process from the beginning to the end: the plea, selection of jury, giving evidence, judge’s summing up.

Make yourself available. The prosecutor must familiarize children with the court system. The children should have the opportunity to ask questions and have them answered.

Binding And Non-Binding Rules

Jamaica has very few legal provisions on how to interact with children in court. Most such guidelines have been provided by the Office of the Children’s Advocate and are non-binding, but are strongly recommended to promote an efficient and successful procedure. All participants in the justice process should be encouraged to comply with these guidelines.

General Tips for Preparing for Court:

- Try to schedule the hearing in the morning, so the child will be less tired.
- Try to schedule the appearance in court in a way that is compatible with the child’s school schedule.
- Inform the child that he/she is not required to wear his/her school uniform at the hearing.
- Provide a safe and comfortable room in court where the child can wait until he/she is required to.

5.3 Taking the Witness Stand


Special Measures for Testifying Under Oath

Oath Not Always Necessary Under the Age of 14

It is not always necessary for a child younger than 14 to take an oath before testifying. If the witness is under the age of 14 and the court thinks the child does not understand the nature of the oath, the testimony of the child may still be received if the child has sufficient intelligence to understand the duty of speaking the truth and to justify the reception of the evidence.

However, when unsworn testimony is given in criminal proceedings, such as a child labour case, the evidence can only be used to convict if it is **corroborated by other material evidence**.





Oathtaking and Young Children:

Young children may not always understand what it means to take an oath. It may be helpful, in some cases, to instead explain it as a promise to tell the truth.

Special Measurers for a Child's Testimony

Special Measures Possible Under the Age of 18

National law considers a witness under the age of 18 to be a 'child witness' and gives the court the option to take certain appropriate measures if necessary. According to the law, a **witness is a "vulnerable witness" if he/she is a child at the time that an application or motion for special measures is determined by the court.** The court may issue special measures on application of one of the parties or on its own initiative. Because these conditions are fulfilled in child labour cases in which a child testifies, the judge can require special measures. Special measures include providing evidence by live link, video recorded evidence, testifying behind physical screens, and providing evidence in-camera.

Where the vulnerable witness is a child, special measures (or a combination of measures) shall be deemed to be appropriate, **unless**

- The court thinks that the measures will not improve the quality of the evidence, or
- The child witness requests that these special measures not be taken, and the court is certain that the quality of the evidence will not be diminished as a result.

When the court makes this decision, it should take into account:

- The age and maturity of the child witness,
- The ability of the child to understand the utility of the measure is in giving the evidence; and
- Any other matter that the court considers relevant.

The court may change its decision to apply these measures if circumstances have substantially changed.

Evidence by Live Link

This is a technological arrangement which makes it possible for the witness to see and hear the place where the proceedings are held and to be seen and heard by people present in that place. Examples are using a webcam or skype. This can be useful if the child gets very upset if he/she sees the accused person or is very afraid of him/her.

Video Recorded Evidence

The video may be recorded before or after the start of the proceedings and can be all of a part of the video. The video includes sound. The court can decide to exclude a part of the video if they think it is necessary under the circumstances of the case.

Behind Screens

The witness gives evidence in the court room, but from behind a screen. This also prevents him/her from seeing the accused and vice versa.

In-camera Evidence

In-camera is the same as 'in private', which means that the public is not allowed to observe the hearing. Only the judge and both attorneys and a court reporter may attend the testimony.

What Kinds of Questions Can the Child Expect?

Kinds of Questioning

All kinds of previously explained questioning methods can be used:

- Examination in chief
- Cross examination
- Re-examination

Language

The language used should be clear, simple and age-appropriate. For example, a child of 12 years old will understand more complex questions compared to a child of 5 years old. The language used must be polite, respectful and appropriate.

Don't

Following practices must be **avoided** when questioning a child.

- Don't ask repetitive questions
- Don't question too fast, but take your time
- Don't ask unrealistically specific details or times
- Don't shout

Best Practices

Best Practices When a Child Witness is Involved

Child victims and child witnesses often experience a court case as very stressful. They may not know the majority of the people involved, and or may be afraid of the person accused.

The following specific guidelines for all players in court will help the child to feel more at ease. The protection of the best interests of the child depends on every person in the courtroom.

Police Officers and Court Officials

- Refrain from shouting the names of the children when the court is ready to hear their matters.
- Bring the child to a child-friendly waiting place before and after his/her testimony. There is no reason to keep the child in court. There can be toys in the waiting room to distract the child.

Judge

- The most important job for the judge is to monitor the examination closely. Questioning of the child must not be aggressive, hostile or disrespectful. The language used must be simple and protective.
- The court can issue directions to limit the duration of the child's testimony.
- Take reasonable breaks. The judge can decide in advance how many breaks and how long they should last. You can also clarify to the child that it is ok for him/her to ask for breaks when needed.

Prosecutor / Defendant

- Let the child explain things in his or her own words.
- Have patience if the child does not understand something, needs breaks, or does not know an answer.

Social Workers

- Make the child feel safe.
- Help to assure that the child's physical and emotional needs are being met.
- Reassure the child by answering his/her questions.
- Work to help the child explain his/her story as preparation for possible participation in court proceedings.

Parent/Guardian

- Normally, parents or guardians are entitled to participate in the proceedings. The court may require them to attend the hearings.
- The court can deny their attendance if they think this is best for the child, such as if the court believes that their attendance might be too stressful for the child, or if the court fears that the child might not tell the truth if the parents/guardians are present.

Other Hearings

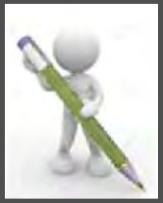
Child Can Be Excused

The court may be encouraged to excuse the child victim/defendant. They can have the option to not attend administrative sittings. Child labour cases often involve children missing a lot of classes at school. The sooner they can pick up their normal school schedule, the better. Try to dismiss children's attendance if their contribution to the sitting is not necessary. Consider having only the parents or guardians attend portions of the hearing without the child.



Chapter Summary

This chapter described how to prepare a child to testify in court and the special rights and protections in place for children testifying during a trial. The chapter also addressed special rules for children who testify and the roles of different individuals working with children during the trial process.



Chapter Exercise

You are working on a child labour case involving three 14-year-old children who were working in a shop for 30 hours a week. The investigation has concluded and the employer has been charged. The trial process is about to begin.

1. What information should you provide the children at the beginning of the trial process?

2. What are the special measures available to children testifying? Why are these important?

3. Who should you be coordinating with during the trial process?

Appendix A:
Child Care and Protection Act
Parts 1 & 2

THE CHILD CARE AND PROTECTION ACT
ARRANGEMENT OF SECTIONS

Preliminary

1. Short title.
2. Interpretation.
3. Objects of Act.

PART I. Care and Protection of Children

4. Representation by Children's Advocate.
5. Establishment of Children's Register.
6. Duty to report need for care and protection.
7. Assessment and investigation of reports to Registry.
8. Circumstances in which a child is in need of care and protection.
9. Cruelty to children.
10. Prohibition against sale or trafficking of children.
11. Warrant to search for and remove child.
12. Detention of child in place of safety.
13. Power to bring child needing care or protection before court.
14. Powers of court.
15. Power to take offender into custody.
16. Mode of charging offences and limitation of time.
17. Power to hear case in absence of child.
18. Extension of power to take statement of child.
19. Admission in evidence of deposition of child.
20. Evidence of child of tender years.
21. Order to submit to medical examination.
22. Disease testing of convicted offender.

[The inclusion of this page is authorized by L.N. 111/2005]

CHILD CARE AND PROTECTION

23. Disposal of case by order of court.
24. Power of parent or guardian to bring child before court.

PART II. General Provisions for Care and Protection of Children

25. Interpretation for Part II.
26. Responsibilities of fit persons.
27. Duty to provide care for child.
28. Duty to secure education of child.
29. Contributions.
30. Contribution orders.
31. Provisions as to affiliation order.
32. Reference in section 30 or 31 to court for Kingston and Saint Andrew is to Family Court.
33. Prohibition on employment of child under thirteen.
34. Restriction on employment of child over thirteen.
35. Exception for artistic performances.
36. Responsibility for contravention of sections 33 and 34.
37. Search warrant.
38. Saving.
39. Prohibition on employment in nightclubs, etc.
40. Prohibition of sale of intoxicating liquor or tobacco products to child.
41. Begging.
42. Restriction on presence of child in court.
43. Power to clear court when child in court.
44. Power to prohibit publication of certain matters.
45. Restriction on newspaper reports of proceedings in Juvenile Court.

PART III. Children in Care

46. Interpretation for Part III.

[The inclusion of this page is authorized by L.N. 111/2005]

47. Licence to operate children's home.
48. Application for licence.
49. Power of Minister in respect of licences.
50. Appeals.
51. Responsibility of licensees.
52. Notification of reception of child.
53. Removal or death of child.
54. Power to visit and inspect homes.
55. Warrant to visit and inspect.
56. Control over licensed homes.
57. Order to remove child from home.
58. Escape from fit person.
59. Transfer of persons under care of fit persons.
60. Emigration, etc., of children.
61. Rules relating to fit persons.
62. Rights of child in places of safety, etc.

PART IV. *Children Detained or Brought Before a Court*

63. Age of criminal responsibility.
64. Determination of age.
65. General considerations for guidance of courts.
66. Separation of children from adults.
67. Bail or detention of child.
68. Remand or committal to juvenile remand centre.
69. Attendance at court of parent of child charged with offence, etc.
70. Notice to appropriate officers of charges against child.
71. Constitution of, procedure in, and appeal from, Children's Court.
72. Jurisdiction of Children's Court.
73. Provisions as to powers of Children's Court.

[The inclusion of this page is authorized by L.N. 111/2005]

CHILD CARE AND PROTECTION

74. Court other than Children's Court to have powers of Children's Court.
75. Power of other courts to remit child offenders to Children's Court.
76. Methods of dealing with child offenders.
77. Enforcement of recognizance.
78. Restriction on punishment.
79. Restriction on committal to juvenile correctional centre.
80. Special provisions relating to probation.
81. Provisions relating to committal to child correctional centre.
82. Provisions relating to committal to fit person.
83. No committal to centre which has ceased to be a juvenile correctional centre.
84. Steps to be taken by Minister on receipt of fit person order.

PART V. Administration and Enforcement

85. Establishment of Council.
86. General duty of the Council to advise the Minister.
87. Proceedings by Minister.
88. Miscellaneous offences.
89. General penalty.
90. Forms.
91. Regulations.
92. Protection from liability.
93. Power of Minister to amend Act.

SCHEDULES

[The inclusion of this page is authorized by L.N. 111/2005]

THE CHILD CARE AND PROTECTION ACT

Act
11 of 2004,
12 of 2009
3rd Sch.

[26th March, 2004.]

Preliminary

1. This Act may be cited as the Child Care and Protection Act. Short title.

2.—(1) In this Act— Interpreta-
tion.

“adult” means a person who has attained the age of eighteen years;

“adult correctional centre” has the meaning assigned to it by section 2 of the Corrections Act;

“child” means a person under the age of eighteen years;

“Children’s Advocate” means the office of Children’s Advocate constituted under section 4;

“Children’s Court” means any Children’s Court established in accordance with the provisions of this Act;

“children’s home” means any institution, dwelling-house or other place where four or more children are boarded and maintained other than by a parent or lawful guardian, either gratuitously or for reward;

“children’s officer” means a public officer designated by the Minister to be a children’s officer for the purposes of this Act;

“contribution order” means an order made by a court under section 30 requiring any person to make contributions in respect of any child committed to the care of a fit person or to a juvenile correctional centre;

“correctional order” means an order made by a court sending a child to a juvenile correctional centre;

“the Council” means the Advisory Council established under this Act;

CHILD CARE AND PROTECTION

“the Council” means the Advisory Council established under this Act;

“fit person” means the Minister, and any person or body, whether corporate or unincorporate, designated by the Minister;

“fit person order” means an order committing a child to the care of a fit person;

“guardian”, in relation to a child, includes any person who, in the opinion of the court having cognizance of any case in relation to the child or in which the child is concerned, has for the time being the charge of or control over the child;

“intoxicating liquor” means any fermented, distilled or spirituous liquor which cannot, save in certain specified circumstances, according to any enactment for the time being in force, be legally sold without a licence;

“juvenile correctional centre” has the meaning assigned to it by section 2 of the Corrections Act;

“juvenile remand centre” has the meaning assigned to it by section 2 of the Corrections Act;

“place of safety” means any place appointed by the Minister to be a place of safety for the purposes of this Act;

“probation and after-care officer” has the meaning assigned to it by section 2 of the Corrections Act;

“Registry” means the Children’s Registry established under section 5.

(2) Where there is a reference in this Act to the best interests of a child, the factors to be taken into account in determining the child’s best interests shall include—

- (a) the safety of the child;
- (b) the child’s physical and emotional needs and level of development;
- (c) the importance of continuity in the child’s care;

- (d) the quality of the relationship the child has with a parent or other person and the effect of maintaining that relationship;
- (e) the child's religious and spiritual views;
- (f) the child's level of education and educational requirements;
- (g) whether the child is of sufficient age and maturity so as to be capable of forming his or her own views and, if so, those views are to be given due weight in accordance with the age and maturity of the child;
- (h) the effect on the child of a delay in making a decision.

(3) This Act shall be interpreted and administered so that the best interests of the child is the paramount consideration and in accordance with the following principle—

- (a) children are entitled to be protected from abuse, neglect and harm or threat of harm;
- (b) a family is the preferred environment for the care and upbringing of children and the responsibility for the protection of children rests primarily with the parents;
- (c) if, with available support services, a family can provide a safe and nurturing environment for a child, support services should be provided;
- (d) where the child is of sufficient age and maturity so as to be capable of forming his or her own views, those views should be taken into account when decisions relating to the child are made;
- (e) kinship ties and the child's attachment to the extended family should be preserved if possible; and
- (f) decisions relating to children should be made and implemented in a timely manner.

(4) For the purposes of this Part—

[The inclusion of this page is authorized by L.N. 111/2005]

- (a) any person who is the parent or legal guardian of a child, or who is legally liable to maintain the child, shall be presumed to have the custody of the child, and as between father and mother, neither shall be deemed to have ceased to have such custody by reason only that the father or mother has deserted, or otherwise does not reside with, the other parent and the child;
- (b) any person to whose charge a child is committed by any other person who has the custody of the child shall be presumed to have charge of that child;
- (c) any other person having actual possession or control of a child shall be presumed to have the care of the child.

Objects of
Act.

3. The objects of this Act are—

- (a) to promote the best interests, safety and well-being of children;
- (b) to recognize that—
 - (i) while parents often need help in caring for children, help should give support to the autonomy and integrity of the family unit and wherever possible, be provided on the basis of mutual consent;
 - (ii) the least restrictive or disruptive course of action that is available and appropriate in a particular case to help a child should be followed;
- (c) to recognize that child services should be provided in a manner that—
 - (i) respects the child's need for continuity of care and for stable family relationships; and
 - (ii) takes into account physical and mental differences among children in their development;

[The inclusion of this page is authorized by L.N. 111/2005]

- (d) to recognize the special needs of children in conflict with the law.

PART I.—*Care and Protection of Children*

4.—(1) For the purpose of protecting and enforcing the rights of children, there is hereby established a commission of Parliament which shall be known as the Children's Advocate.

Representation by Children's Advocate.

(2) The provisions of the First Schedule shall have effect with respect to the constitution and functions of the Children's Advocate.

First Schedule.

(3) Where in any proceedings a child is brought before the court and it appears that the child is in need of legal representation in those proceedings, the court shall—

- (a) refer the case to the Children's Advocate or, if the court thinks fit, grant a legal aid certificate in such circumstances as may be prescribed;
- (b) if the court thinks fit, adjourn the proceedings until such time as the court considers sufficient to allow for, as the case may be—
- (i) the Children's Advocate to consider the case; or
- (ii) the necessary arrangements to be made for the child to obtain legal representation pursuant to the legal aid certificate; and
- (c) cause to be delivered to the Children's Advocate a notice of its determination under this section.

5.—(1) For the purposes of this Act there shall be a Children's Register and a Children's Registry.

Establishment of Children's Register.

(2) The Children's Register shall consist of such information as is supplied by persons who are required to make a report under section 6.

(3) The Minister may make regulations prescribing the procedure for the entry of information into the Register, the

[The inclusion of this page is authorized by L.N. 111/2005]

form and contents of the Register, the appointment and duties of officers and staff of the Registry, the location of registration centres, and any other matter necessary to give effect to the provisions of this section.

Duty to
report need
for care
and
protection.

6.—(1) In this section—

“prescribed person” means—

- (a) a physician, nurse, dentist or other health or mental health professional;
- (b) an administrator of a hospital facility;
- (c) a school principal, teacher or other teaching professional;
- (d) a social worker or other social service professional;
- (e) an owner, operator or employee of a child day care centre or other child care institution;
- (f) a guidance counselor; or
- (g) any other person who by virtue of his employment or occupation has a responsibility to discharge a duty of care towards a child;

“relevant regulatory entity” means the entity authorized by law to regulate the professional activities of a prescribed person.

(2) Any person who has information which causes that person to suspect that a child—

- (a) has been, is being or is likely to be, abandoned, neglected or, physically or sexually ill-treated; or
- (b) is otherwise in need of care and protection,

shall make a report to the Registry.

(3) A prescribed person who, in the discharge of that person’s duties, acquires information that ought reasonably to cause that person to suspect that a child—

- (a) has been, is being or is likely to be, abandoned, neglected or, physically or sexually ill-treated; or

[The inclusion of this page is authorized by L.N. 111/2005]

(b) is otherwise in need of care and protection, shall make a report to the Registry in accordance with the provisions of this section.

(4) A person who contravenes subsection (2) or (3) commits an offence and shall be liable upon summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars or to imprisonment to a term not exceeding six months or to both such fine and imprisonment.

(5) Where the Minister has reasonable grounds to suspect that a prescribed person has committed an offence under subsection (4), the Minister may, without prejudice to any proceedings under that subsection, require the relevant regulatory entity to cause an investigation to be made into the matter.

(6) No action shall lie in respect of any person who makes a report to the Registry in good faith pursuant to this section.

(7) A report to the Children's Registry shall—

- (a) be made as soon as is reasonably possible;
- (b) be in such form as may be prescribed; and
- (c) contain all the material facts giving rise to the suspicion that the child has been, is being or is likely to be, abandoned, neglected, physically or sexually ill-treated, or is otherwise in need of care and protection.

(8) A person who knowingly makes a false statement in a report to the Children's Registry commits an offence.

(9) Subsection (2) or (3) applies even if the information on which the belief is based—

- (a) is privileged as a result of a relationship of attorney-at-law and client; or
- (b) is confidential,

unless there is no substantial risk that the welfare of the child will be further endangered.

[The inclusion of this page is authorized by L.N. 111/2005]

Assessment
and investi-
gation of
reports to
Registry.

7.—(1) On receiving a report about a child under section 6, the Registrar shall assess the information in the report and, after such assessment, may—

- (a) refer the report to the Children's Advocate and the Government agency responsible for children for further investigation or so that the child may be brought before a court under section 13, as the case may require;
- (b) inform the person having custody, care or control of the child, of the report, unless, in the opinion of the Registrar, such information would cause physical or emotional harm to any person, endanger the safety of the child or impede an investigation under paragraph (a).

(2) Every person shall regard as secret and confidential every report made under section 6 and shall not, other than in any proceedings for an offence or as is permitted for the purposes of this Act, disclose—

- (a) the existence of the report or any information contained therein; or
- (b) any other information from which the identity of—
 - (i) any child concerned in the report; or
 - (ii) any person alleged in the report to have committed an offence in respect of any such child,

may be reasonably inferred.

(3) A person who contravenes subsection (2) shall be liable upon summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(4) The Registrar commits an offence if the Registrar—

- (a) fails to assess any report referred to in subsection (1);
- or

(b) fails, without good cause, to refer the report in accordance with subsection (1)(a).

(5) A person to whom a report is referred for investigation under subsection (1)(a), other than the Children's Advocate, commits an offence if that person fails to carry out the investigation.

8.—(1) For the purposes of this Act a child shall be considered to be in need of care and protection if that child—

Circumstances in which a child is in need of care and protection.

- (a) having no parent or guardian, or having a parent or guardian unfit to exercise care and guardianship, or not exercising proper care and guardianship, is falling into bad associations, exposed to moral danger, or beyond control;
- (b) is being cared for in circumstances in which the child's physical or mental health or emotional state is being seriously impaired or there is a substantial risk that it will be seriously impaired;
- (c) is a child in respect of whom any offence mentioned in the Second Schedule has been committed or attempted to be committed;
- (d) is a member of the same household as a child in respect of whom such an offence has been committed; or
- (e) is a member of the same household as a person who has been convicted of such an offence in respect of a child.

Second Schedule.

(2) For the purposes of subsection (1), the fact that a child is found—

- (a) destitute;
 - (b) wandering without any settled place of abode and without visible means of subsistence;
 - (c) begging or receiving alms or loitering for that purpose,
- shall, without prejudice to the generality of the provisions of subsection 1 (a), be evidence that the child is exposed to moral danger.

Cruelty to children.

9.—(1) A person commits an offence if that person, being an adult and having the custody, charge or care of any child willfully—

- (a) assaults, physically or mentally ill-treats, neglects, abandons or exposes such child; or
- (b) causes or procures the child to be assaulted, physically or mentally ill-treated, neglected, abandoned or exposed,

in a manner likely to cause that child unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb, or organ of the body, or any mental derangement).

(2) A person who commits an offence under subsection (1) shall be liable—

- (a) on conviction on indictment in a Circuit Court, to a fine or to imprisonment with hard labour for a term not exceeding five years, or to both such fine and imprisonment;
- (b) on summary conviction before a Resident Magistrate, to a fine not exceeding one million dollars or to imprisonment with hard labour for a term not exceeding three years, or to both such fine and imprisonment.

(3) For the purposes of this section, the persons specified in paragraphs (a) to (c) shall, in the circumstances described in those paragraphs, be deemed to have neglected a child in a manner likely to cause injury to the child's health, that is to say—

- (a) a parent or other person legally liable to maintain the child who, being able to do so, fails to provide for the child in accordance with any duty imposed by section 27 or 28;
- (b) an adult with whom an infant under three years of age was in a bed, where it is proved that—

[The inclusion of this page is authorized by L.N. 111/2005]

- (i) the infant's death was caused by suffocation (not resulting from disease or the presence of any foreign body in the infant's throat or air passages); and
 - (ii) the adult was, at the time of going to bed, under the influence of drink or any drug;
- (c) any adult having the custody, charge or care of any child, who allows that child to—
- (i) be in any room or yard containing—
 - (A) any body of water, whether naturally or artificially formed or stored in a container; or
 - (B) a stove, coal-stove, or open flame; or
 - (ii) have access to any poisonous or flammable substances,

not sufficiently protected to guard against the risk of that child being drowned, poisoned, burnt or scalded, as the case may be, without taking reasonable precautions against the risk, and by reason thereof that child is killed or suffers serious injury:

Provided that neither this paragraph nor any proceedings taken thereunder, shall affect the liability of any person to be indicted for manslaughter or for any offence against the Offences Against the Person Act.

(4) Any adult other than an owner or operator in the circumstances referred to in section 40, who gives, or causes to be given, or sells or causes to be sold, to any child any intoxicating liquor, except upon the order of a duly qualified medical practitioner for the purpose of treating sickness, or in case of other urgent cause, shall be deemed to have ill-treated that child in a manner likely to cause injury to the child's health.

(5) A person may be convicted of an offence under this section—

[The inclusion of this page is authorized by L.N. 111/2005]

- (a) notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health, was obviated by the action of another person;
- (b) notwithstanding the death of the child in respect of whom the offence is committed.

(6) Upon the trial of any adult for infanticide or for the manslaughter of a child of whom the adult had the custody, charge or care, it shall be lawful for the jury, if they are satisfied that the adult is guilty of an offence under this section to find that adult guilty of that offence.

(7) If it is proved that a person convicted under this section was directly or indirectly interested in any sum of money accruing or payable in the event of the death of the child and had knowledge that that sum of money was accruing or becoming payable, then—

- (a) in the case of a conviction on indictment before a Circuit Court, the Court may impose a fine or sentence that person to imprisonment with hard labour for any term not exceeding ten years or impose both such fine and sentence;
- (b) in the case of a summary conviction before a Resident Magistrate, the maximum amount of the fine which may be imposed under this section shall be one million five hundred thousand dollars and the Resident Magistrate may, instead of any other penalty, sentence that person to imprisonment with hard labour for any term not exceeding five years or impose both such fine and sentence.

(8) For the purposes of subsection (7)—

- (a) a person shall be deemed to be directly or indirectly interested in a sum of money if he has any share in or any benefit from the payment of that money, notwithstanding that he is not the person to whom it is legally payable;

[The inclusion of this page is authorized by L.N. 111/2005]

- (b) a copy of a policy of insurance, certified to be a true copy by an officer or agent of the insurance company granting the policy, shall be evidence that the child therein stated to be insured has in fact been so insured and that the person in whose favour the policy has been granted is the person to whom the money thereby insured is legally payable.

(9) Any reference in this section, section 50(3) or 57 to a Resident Magistrate, in so far as it relates—

- (a) to a Resident Magistrate for the parish of Kingston or for the parish of St. Andrew shall be construed as a reference to a Judge of the Family Court—Corporate Area Region; and
- (b) to a Resident Magistrate for a parish within the geographical jurisdiction of the Family Court established pursuant to Part II of the Judicature (Family Court) Act shall be construed as a reference to a Judge of that Family Court.

10.—(1) No person shall sell or participate in the trafficking of any child.

Prohibition against sale or trafficking of children.

(2) Any person who commits an offence under subsection (1) shall be liable on conviction on indictment before a Circuit Court, to a fine or to imprisonment with hard labour for a term not exceeding ten years, or to both such fine and imprisonment.

11.—(1) If it appears to a Justice of the Peace on information on oath laid by any person who, in the opinion of the Justice of the Peace is acting in the interests of a child that there is reasonable cause to suspect—

Warrant to search for and remove child.

- (a) that the child has been or is being assaulted, ill-treated or neglected in a manner likely to cause that child unnecessary suffering; or
- (b) that any offence mentioned in the Second Schedule has been, is being or is likely to be committed in respect of the child, the Justice of the Peace may act in accordance with subsection (2) or (3).

Second Schedule.

[The inclusion of this page is authorized by L.N. 111/2005]

CHILD CARE AND PROTECTION

(2) The Justice of the Peace may issue a warrant—

(a) authorizing any constable—

(i) to search for the child and, if it is found that the child has been, is being or is likely to be assaulted, ill-treated or neglected in any such manner, or that any such offence has been or is being committed in respect of the child, to remove the child to and detain the child in a place of safety; or

(ii) to remove the child with or without search to a place of safety and to detain the child there,

and bring the child before a Children's Court or, if there is no Children's Court sitting in that parish, before a Resident Magistrate in chambers, within forty-eight hours after such removal; or

(b) causing any person accused of any offence mentioned in subsection (1) in respect of the child to be apprehended and brought before a court of summary jurisdiction in order that proceedings may be taken against him according to law.

(3) Instead of authorizing the removal of a child under subsection (2), the Justice of the Peace may make an order prohibiting any person accused of any offence mentioned in subsection (1) in respect of the child from—

(a) entering or remaining in the household residence where the child resides; or

(b) following or waylaying the child in any place, until such time as the child is brought before the court.

(4) A copy of an order made under subsection (3) shall be served personally on the person accused of the offence, who may apply immediately to the Justice of the Peace for the order to be discharged.

(5) In determining whether to discharge the order, the Justice of the Peace shall have regard to the matters referred to in subsection (1).

(6) Any constable authorized by warrant under this section to search for any child, or to remove any child with or without search, may enter (if need be by force) any house, building or other place specified in the warrant and may remove the child therefrom.

(7) The constable executing any warrant issued under this section may be accompanied by the person laying the information, if that person so desires, and may also, if the Justice of the Peace by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.

(8) It shall not be necessary in any information or warrant under this section to name the child.

12.—(1) A constable, a children’s officer or a probation and after-care officer may take to a place of safety any child in respect of whom any of the offences mentioned in the Second Schedule has been committed, or there is reason to believe has been committed, or who is, in accordance with the provisions of section 13, about to be brought before a Children’s Court.

Detention of child in place of safety. Second Schedule.

(2) Any child taken to a place of safety under this section, or any child who seeks refuge in a place of safety, shall not be detained there for longer than forty-eight hours without having been brought before a Children’s Court or, if there is no Children’s Court sitting in that parish, a Resident Magistrate in chambers.

13.—(1) Any constable or authorized person may bring before a Children’s Court any child in need of care or protection.

Power to bring child needing care or protection before court.

(2) For the purposes of this section the expression—
“authorized person” means—

(a) any probation and after-care officer or any children’s officer;

[The inclusion of this page is authorized by L.N. 111/2005]

- (b) any person appointed by the Minister under section 87, including any person appointed by the Minister on the recommendation of a welfare organization.

Powers of Court.

Second Schedule.

14.—(1) A Children's Court before which any child is brought under this Part, or before which is brought any child in respect of whom any of the offences mentioned in the Second Schedule has been committed, may, if satisfied that the best interests of the child so require, make an order in accordance with subsection (2).

(2) An order under subsection (1) may—

- (a) require the child's parent or guardian to enter into a recognizance to exercise proper care and guardianship;
- (b) commit the child to the care of any fit person, whether a relative or not, who is willing to undertake the care of the child;
- (c) either in addition to, or without making any order under paragraph (a) or (b), place the child for a specified period not exceeding three years, under the supervision of a probation and after-care officer, or some other person to be selected for the purpose by the Minister;
- (d) prohibit for a specified period, not exceeding two years, any person found guilty of such offence—
- (i) from entering onto or residing at any premises at which the child resides, including premises the person owns or has a right to occupy; or
- (ii) from contacting or interfering with, or attempting to contact or interfere with, the child, except that where such person is the child's parent, the order may set out such conditions for supervised contact between

that parent and the child, as the court may think fit having regard to the best interests of the child;

- (e) if there are reasonable grounds to believe that a person is likely to interfere with a party who has custody of a child, prohibit that person from contacting or interfering with, or attempting to contact or interfere with, the party who has custody of the child;
- (f) where any person found guilty of such offence is a person having the custody, charge, or care of the child, require—
 - (i) that person; or
 - (ii) the child or any other child who resides with that person,

to receive counselling for a specified period from a fit person, qualified by his knowledge of psychology or psychiatry, appointed by the court.

(3) The Government agency responsible for children or any party to proceedings under this section may apply to the court for a variation or discharge of an order, if circumstances have changed significantly since the order was made.

(4) Notice of any application under subsection (3) shall be given to all other parties to the proceedings at least seven days before the date set for hearing the application.

(5) If a Children's Court before which any child is brought is not in a position to decide whether any or what order ought to be made under this section, it may make such interim order as it thinks fit for the child's detention or continued detention in a place of safety, or for his committal to the care of a fit person, whether a relative or not, who is willing to undertake the care of the child.

(6) Any interim order made under subsection (5) shall not remain in force for more than thirty days; but at any time within such period the court may, if it considers it expedient so to do, make a further interim order; so, however, that in no case shall any interim order remain in force for more than sixty days after the date of the first order made under subsection (5).

(7) If the Children's Court by which an interim order is made is satisfied on any occasion that, by reason of illness, accident or other justifiable cause the child is unable to appear personally before the court, any further interim order which the court has power to make on that occasion may be made in the absence of the child.

(8) In making an order under this section for the committal of a child to the care of a fit person or for placement of a child in a place of safety, the court shall consider the child's best interests and give priority to placing the child with a relative or, if that is not consistent with the child's best interests, committal or placement of the child as follows—

- (a) in a location where the child can maintain contact with relatives and friends;
- (b) in the same family unit as the child's brothers and sisters;
- (c) in a location that will allow the child to continue in the same school.

Power to
take offender
into custody.

15.—(1) Any constable may take into custody, without warrant, any person who—

Second
Schedule.

- (a) commits, within his view, any of the offences mentioned in the Second Schedule;
- (b) has committed, or whom he has reason to believe to have committed, any such offence,

if the constable has reasonable grounds for believing that such person will abscond, or if the constable does not know and cannot ascertain that person's name and address.

[The inclusion of this page is authorized by L.N. 111/2005]

(2) Where, under the powers conferred by this section, a constable arrests any person without warrant, the officer or sub-officer of the police in charge of the station to which that person is brought shall grant the person bail in accordance with the Bail Act, unless he believes, on reasonable grounds, that the release of that person on bail would tend to defeat the ends of justice, or to cause injury or danger to the child against whom the offence is alleged to have been committed.

16.—(1) Where a person is charged with committing any of the offences mentioned in the Second Schedule in respect of two or more children, the same information or summons may charge the offence in respect of all or any of them, but the person charged shall not, if he is summarily convicted, be liable to a separate penalty in respect of each child except upon separate information.

Mode of charging offences and limitation of time.

(2) The same information or summons may also charge any person as having the custody, charge or care, alternatively or together and may charge him with—

- (a) the offence of assault, ill-treatment, neglect, abandonment, or exposure, together or separately; and
- (b) committing all or any of those offences in a manner likely to cause unnecessary suffering or injury to health, alternatively or together,

but when those offences are charged together the person charged shall not, if he is summarily convicted, be liable to a separate penalty for each.

(3) Where a person is charged with any offence mentioned in the Second Schedule, and the offence is a continuous offence, it shall not be necessary to specify in the information, summons or indictment the date of the acts constituting the offence.

17. Where in any proceedings with relation to any of the offences mentioned in the Second Schedule the court is satisfied that the attendance before it of any child in respect of whom the

Power to hear case in absence of child.

offence is alleged to have been committed is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the child.

Extension
of power to
take statement
of child.
Second
Schedule.

18.—(1) Where a Justice of the Peace is satisfied by the statement of a duly qualified medical practitioner that the attendance before a court of any child, in respect of whom any of the offences mentioned in the Second Schedule is alleged to have been committed, would involve serious danger to the life or health of the child, the Justice of the Peace may take in writing the deposition of the child on oath, and shall thereupon subscribe the statement and add thereto a declaration of his reason for taking it and of the date on which, and the place where, it was taken, and of the names of the persons (if any) present at the taking thereof.

(2) The Justice of the Peace taking any such statement shall transmit it with the Justice's declaration—

- (a) if the statement relates to an offence for which any accused person is already committed for trial, to the proper officer of the court for trial at which the accused person has been committed;
- (b) in any other case, to the clerk of the court before which proceedings are pending in respect of the offence.

Admission in
evidence of
deposition
of child.

19. Where, in any proceedings in respect of any of the offences mentioned in the Second Schedule, the court is satisfied by the evidence of a duly qualified medical practitioner that the attendance before the court of any child, in respect of whom the offence is alleged to have been committed, would involve serious danger to the child's life or health, any deposition of the child taken under Part II of the Justices of the Peace Jurisdiction Act, or under this Part of this Act, shall be admissible in evidence either for or against the accused person without further proof thereof if it purports to be signed by the Justice of the Peace by or before whom it purports to be taken:

Provided that the deposition shall not be admissible in

[The inclusion of this page is authorized by L.N. 111/2005]

evidence against the accused person unless it is proved that reasonable notice of the intention to take the deposition has been served upon him and that he or his attorney-at-law had, or would have had if he had chosen to be present, an opportunity of cross-examining the child making the deposition.

20.—(1) Subject to subsection (2), where, in any proceedings against any person for any offence, any child of tender years called as a witness does not in the opinion of the court understand the nature of an oath, the child's evidence though not given upon oath—

Evidence of child of tender years.

- (a) may be received, if, in the opinion of the court, the child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth;
- (b) if otherwise taken and reduced into writing in accordance with the provisions of section 34 of the Justices of the Peace Jurisdiction Act, or of this Part, shall be deemed to be a deposition within the meaning of that section and this Part, respectively.

(2) Where evidence admitted by virtue of this section is given on behalf of the prosecution, the accused shall not be liable to be convicted of the offence unless that evidence is corroborated by other material evidence in support thereof implicating him.

(3) In this section, "child of tender years" means a child under the age of fourteen years.

21.—(1) Where a child is brought before the court as being in need of care and protection and there is reason to believe that the child has been abused, the court may, of its own volition or on the application of the child's parent or guardian, a constable or authorized officer or the Children's Advocate, make an order requiring that the child be medically examined for the purposes of determining what steps ought to be taken in relation to the health and medical treatment of the child.

Order to submit to medical examination.

(2) A medical practitioner acting pursuant to an order made under subsection (1) may carry out, or cause to be carried

out, such medical examination of the child as the medical practitioner thinks fit and shall, as soon as practicable, transmit a report thereon to the court.

(3) No proceedings shall be brought against a medical practitioner for anything done in good faith in accordance with the provisions of this section.

Disease
testing of
convicted
offender.

22.—(1) Where a person is charged with or convicted of an offence in respect of a child, being—

- (a) an offence under the Offences Against the Person Act, namely section 40 (aggravated assaults on women or children), 47 (defilement of female imbecile), 48 (carnal knowledge of girl under 12), 50 (above 12 and under 16) or 53 (indecent assault, etc.); or
- (b) any offence involving conduct likely to result in the transmission of a communicable disease to a child,

the court may make an order requiring such person to submit to medical examination and testing for the purpose of ascertaining whether such person is the carrier of a communicable disease, if the court is satisfied that such examination and testing is in the best interests of the child.

(2) A person having knowledge or possession of information relating to any examination or test carried out under subsection (1) shall regard and deal with such information as secret and confidential; and any such person who communicates or attempts to communicate such information to any person—

- (a) other than to a person to whom he is authorized to communicate it; or
- (b) otherwise than for the purposes of this Act,

commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars and in default of payment to imprisonment for a term not exceeding twelve months.

(3) An order made under this section may give directions

[The inclusion of this page is authorized by L.N. 111/2005]

in respect of such ancillary matters as are necessary for the proper carrying out of the order and for such communication of the results of any examination or test as is necessary in the best interests of the child.

23.—(1) Where a person having the custody, charge or care of a child has been—

- (a) convicted, in respect of that child, of any of the offences mentioned in the Second Schedule;
- (b) committed for trial for any such offence; or
- (c) bound over to keep the peace towards that child,

Disposal of case by order of court.

Second Schedule.

by any court, that court may order that child to be brought before a Children's Court with a view to the said court making an order under section 14, and shall direct that the Minister and the probation and after-care officer be informed, as soon as practicable, of the order made.

(2) Where any court has, under this section, made an order directing that a child be brought before a Children's Court, it shall be the duty of the following persons to bring the child before the Children's Court—

- (a) the complainant, if he is a constable, in the proceedings against the person having the custody, charge or care of the child;
- (b) if that complainant is not a constable, the senior constable present in court at the time that the order was made; or
- (c) a children's officer.

24.—(1) The parent or guardian of a child may bring the child before a juvenile court and where such parent or guardian proves to the court that he is unable to control the child, the court may make an order in respect of the child if satisfied—

Power of parent or guardian to bring child before court.

- (a) that it is expedient so to deal with the child; and
- (b) that the parent or guardian understands the results which will follow from, and consents to the making of, the order.

[The inclusion of this page is authorized by L.N. 111/2005]

- (2) An order under subsection (1) may—
- (a) be a correctional order; or
 - (b) provide for the child—
 - (i) to be committed to the care of any fit person, whether a relative or not, who is willing to undertake the care of the child; or
 - (ii) to be placed for a specified period, not exceeding three years, under the supervision of a probation and after-care officer, a children's officer or of some other person to be selected for the purpose by the Minister.

PART II.—*General Provisions for Care and Protection of Children*

Interpreta-
tion for
Part II.

25. In this Part—

“employment” means employment in any undertaking, trade, or occupation, carried on for profit or gain, irrespective of whether the employment is gratuitous or for reward;

“industrial undertaking” includes—

- (a) a mine, quarry, distillery or brewery, or a sugar, spirit compounds, match, soap, cigar or cigarette factory, or any undertaking in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished or in which materials are transformed, including ship-building and the generation, transformation and transmission of electricity and motive power of any kind;
- (b) construction, reconstruction, maintenance, repair, alteration or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, water work, or

[The inclusion of this page is authorized by L.N. 111/2005]

other work of construction, as well as the preparation for or laying the foundation of any such work or structures;

- (c) transport of passengers or goods by road, air, rail, or inland waterway, including the handling of goods at docks, wharves, airports and warehouses;

“night work” means work between the hours of ten o’clock in the evening and five o’clock in the morning;

“ship” means any sea-going ship or boat of any description.

26. The person to whose care a child is committed or transferred by an order made under this Act shall, while the order is in force, have the same rights and powers and be subject to the same liabilities in respect of the child’s maintenance as if he were the child’s parent, and the child so committed or transferred shall continue in his care notwithstanding any claim by a parent or other person.

Responsibilities of fit persons.

27.—(1) It shall be the duty of every person responsible for the maintenance of a child to provide the child with adequate food, clothing, lodging and health care appropriate to the age and needs of the child.

Duty to provide care for child.

(2) Any person mentioned in subsection (1), who is financially unable to provide for a child in accordance with subsection (1), shall apply to the Minister in the prescribed manner, for assistance.

28.—(1) Every person having the custody, charge or care of a child between the ages of four and sixteen years shall take such steps as are necessary to ensure that the child is enrolled at, and attends, school.

Duty to secure education of child.

(2) Where a person having the custody, charge or care of a child is financially unable to provide the child with any article required for the purposes of the child’s education at a school at which the child is registered, that person shall apply to the Minister, in the prescribed manner, for assistance.

[The inclusion of this page is authorized by L.N. 111/2005]

(3) The Minister may by order published in the *Gazette* amend subsection (1) by increasing or decreasing any age specified in that subsection.

Contributions.

29.—(1) Where a court makes a fit person order or an order sending the child to a juvenile correctional centre, the court may order the following persons to make contributions in respect of the child—

- (a) the child's father, adopted father or step-father;
- (b) the child's mother, adopted mother or step-mother; and
- (c) any person who, at the date when any such order is made, is cohabiting with the mother of the child, whether he is the putative father or not.

(2) Where a child has been committed to the care of a fit person, contributions under this Act shall be payable to the Government agency responsible for children, to be applied in or towards the maintenance, or otherwise for the benefit, of the child.

(3) Where a child has been committed to a juvenile correctional centre, contributions under this Act shall be payable to the Commissioner of Inland Revenue.

Contribution orders.

30.—(1) A contribution order may be made in accordance with this section where a fit person order or a correctional order has been made in respect of a child.

(2) The contribution order may be made—

- (a) by the court which makes the fit person order or the correctional order, at the same time when it makes that order; or
- (b) subject to the provisions of section 32, by any court of summary jurisdiction having jurisdiction in the place where the person to be charged is for the time being residing, on the application of—
 - (i) the person to whose care the child is committed; or

[The inclusion of this page is authorized by L.N. 111/2005]

(ii) the Minister in the case of a committal to a juvenile correctional centre.

(3) The contribution order shall require any person who is liable to make contributions under section 29, in respect of any child, to contribute such sum as the court thinks fit having regard to his means.

(4) A contribution order—

- (a) shall, unless varied or revoked, remain in force so long as the child remains in the care of the fit person or juvenile correctional centre, and the court when making such order shall have regard to any affiliation order in force in respect of the child;
- (b) may be varied or revoked on the application of either the contributor or the Government agency responsible for children.

(5) A contribution order shall be enforceable—

- (a) where a child has been committed to the care of a fit person, at the instance of the Government agency responsible for children; or
- (b) where a child has been committed to a juvenile correctional centre, at the instance of the Minister in the same manner as an affiliation order made under the Affiliation Act.

(6) A person against whom a contribution order is made shall, if he changes his address, forthwith give notice thereof to the Government agency responsible for children, and any person who fails to comply with the provisions of this subsection, or who knowingly gives notice that is false in any material particular, commits an offence against this Act.

31.—(1) Subsection (2) or (3) shall apply where a court makes a fit person order or a correctional order, and an order for the child's maintenance is in force.

Provisions
as to
affiliation
order.

(2) The court which makes the order referred to in sub-

section (1) may, at the same time, order the payments under the maintenance order to be paid to the person to whom contributions in respect of the child are payable under section 29.

(3) Subject to the provisions of section 32, the powers of the court under subsection (2) may be exercised by any court of summary jurisdiction having jurisdiction in the place where the putative father is for the time being residing, on the application of the person who would be entitled to apply for a contribution order.

(4) Any sums received under the maintenance order shall be applied in like manner as if they were contributions received under a contribution order.

(5) If the putative father changes his address, he shall forthwith give notice thereof to the Government agency responsible for children, and, if he fails so to do, or if he knowingly gives a notice that is false in any material particular, he commits an offence against this Act.

(6) The making of an order under this section with respect to a maintenance order shall not extend the duration of that order.

Reference
in section
30 or 31 to
court for
Kingston
or Saint
Andrew is to
Family Court.

32.—(1) Any reference in section 30(2) (b) or 31(3) to a court having jurisdiction in any place of residence for the time being shall—

- (a) in relation to a place in the parish of Kingston or the parish of Saint Andrew, be construed as a reference to the Family Court—Corporate Area Region; and
- (b) in relation to a place aforesaid in a parish within the geographical jurisdiction of a Family Court established pursuant to Part II of the Judicature (Family Court) Act be construed as a reference to that Family Court.

Prohibition on
employment
of child under
thirteen.

33. No person shall employ a child under the age of thirteen years in the performance of any work.

[The inclusion of this page is authorized by L.N. 111/2005]

34.—(1) No person shall employ a child who has attained the age of thirteen years, but who has not attained the age of fifteen years, in the performance of any work other than in an occupation included on the list of prescribed occupations referred to in subsection (2).

Restriction on employment of child over thirteen.

(2) For the purposes of subsection (1), the Minister shall maintain a list of prescribed occupations—

- (a) consisting of such light work as the Minister responsible for labour considers appropriate for the employment of any child of the age referred to in that subsection; and
- (b) specifying the number of hours during which and the conditions under which such child may be so employed.

(3) No person shall employ a child—

- (a) in the performance of any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual or social development; or
- (b) in night work or an industrial undertaking.

35.—(1) Notwithstanding the provisions of sections 33 and 34, the Minister responsible for labour may, on the advice of the Council, issue a permit to a child to enable that child to be employed for the purpose of participating in artistic performances.

Exception for artistic performances.

(2) A permit issued pursuant to subsection (1) shall specify the number of hours during which and the conditions under which the child may be so employed.

36. Where any child is employed in contravention of any of the provisions of section 33 or 34, any person to whose act, default or representations the contravention is attributable commits an offence against this Act and is liable upon summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not

Responsibility for contravention of sections 33 and 34.

exceeding six months or to both such fine and imprisonment.

Search
warrant.

37. If it is made to appear to a Justice of the Peace that there is reasonable cause to believe that any of the provisions of section 33, 34, 39 or 40 are being contravened with respect to any person, the Justice of the Peace may by warrant authorize any constable to enter any place in, or in connection with, which such person is, or is believed to be, employed, and to make all necessary enquiries therein.

Saving.

38. Nothing in section 33 or 34 shall be construed to apply to the performance of work by any child—

- (a) under order of detention in a juvenile correctional centre or a community service order; or
- (b) as part of that child's instruction in any school,

if such labour or work is not likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual or social development.

Prohibition on
employment
in nightclubs,
etc.

39.—(1) A person commits an offence if that person—

- (a) employs any child in a nightclub; or
- (b) in any manner, uses a child for the purposes of any conduct contrary to decency or morality.

(2) An owner or operator of a nightclub who permits a child to enter into, or remain in, the nightclub commits an offence:

Provided that no person shall be guilty of an offence under this section if he proves to the satisfaction of the court that at the time of entry and while the child was permitted to remain on the premises, the person took all reasonable steps to ascertain and reasonably believed, that the person was not a child.

(3) An owner or operator of a nightclub or premises, who commits an offence under subsection (1) or (2) shall, in addition to any other penalty to which he may be liable under this Act, be liable to have his licence to operate the nightclub revoked and in

[The inclusion of this page is authorized by L.N. 111/2005]

the case of such revocation, shall not be eligible to be issued a licence to operate a nightclub until the expiration of the period of three years from the date on which such owner or operator is convicted for the offence.

(4) Any person who knowingly rents, or allows his premises to be used, for the purposes of any conduct mentioned in subsection (1) involving a child, commits an offence.

(5) A person who commits an offence under this section shall be liable upon summary conviction before a Resident Magistrate to a fine not exceeding one million dollars or to imprisonment for a term not exceeding one year.

40.—(1) An owner or operator of an establishment that sells or serves intoxicating liquor or tobacco products shall ensure that—

Prohibition of sale of intoxicating liquor or tobacco products to child.

- (a) no intoxicating liquor or tobacco product is sold or served by the establishment to any child; and
- (b) no child is employed by the establishment to sell or assist in the selling of intoxicating liquor or tobacco products.

(2) A person commits an offence if that person—

- (a) contravenes subsection (1);
- (b) employs a child to sell or assist in selling intoxicating liquor or tobacco products; or
- (c) purchases intoxicating liquor or tobacco products from a child:

Provided that no person shall be guilty of an offence under this section if he proves to the satisfaction of the court that at the time of the sale, or purchase in the case of paragraph (c), he took all reasonable steps to ascertain, and reasonably believed, that the person employed, or the person to or by whom the intoxicating liquor or tobacco product was sold or served, as the case may require, was not a child.

(3) In this section, "tobacco products" means cigarettes, cigars, cheroots or cigarillos.

[The inclusion of this page is authorized by L.N. 111/2005]

Begging.

41.—(1) Every person who—

- (a) causes or procures any child; or
- (b) having the custody, charge or care of a child, allows the child,

to be in any street, premises or place for the purpose of begging or receiving alms, or of inducing the giving of alms commits an offence against this Act.

(2) If any person while singing, playing, performing or offering anything for sale in a street or public place has with him a child who has been lent or hired out to him, the child shall, for the purposes of this section, be deemed to be in that street or place for the purpose of inducing the giving of alms.

(3) Where an offence under this section is committed by a person mentioned in subsection (1) (b)—

- (a) in the parish of Kingston or the parish of St. Andrew, such offence shall be triable by the Family Court—Corporate Area Region; and
- (b) in a parish within the geographical jurisdiction of a Family Court established pursuant to Part II of the Judicature (Family Court) Act, such offence shall be triable by that Family Court.

Restriction on presence of child in court.

42.—(1) No child, other than an infant in arms, shall be permitted to be present in court during the trial of any other person charged with any offence, or during any proceedings preliminary thereto, except during such time as the child's presence is required as a witness or otherwise for the purpose of justice or in such other circumstances as the court may determine.

(2) The court shall order the removal of any child who is present in court in contravention of this section.

Power to clear court when child in court.

43.—(1) Where, in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, it appears to the court that a person who is called as a witness is a child, the court may direct that all or any persons, not being

[The inclusion of this page is authorized by L.N. 111/2005]

members or officers of the court, parties to the case, their attorneys-at-law, or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of that witness.

(2) The powers conferred on a court by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings in camera.

44.—(1) In relation to any proceedings in any court which arise out of any offence against, or any conduct contrary to, decency or morality, the court may direct that—

Power to prohibit publication of certain matters.

- (a) no report of the proceedings shall reveal the name, address, or school, or include any particulars calculated to lead to the identification, of any child concerned in the proceedings, either as being the person against or in respect of whom the proceedings are taken, or as being a witness therein;
- (b) no picture of any child so concerned in the proceedings as aforesaid, shall be published,

except in so far (if at all) as may be permitted by the direction of the court.

(2) Any person who publishes any matter in contravention of any directions given under subsection (1) commits an offence and is liable upon summary conviction before a Resident Magistrate to a fine not exceeding one million dollars or in default of payment to imprisonment for a term not exceeding twelve months.

45.—(1) No report of any proceedings in a Children's Court shall reveal the name, address or school or include any particulars calculated to lead to the identification of any child concerned in those proceedings either as being the person against or in respect of whom proceedings are taken or as being a witness therein, nor shall any picture be published as being or including a picture of any child so concerned in any such proceedings:

Restriction on newspaper reports of proceedings in juvenile courts.

Appendix B:

ILO Convention 138 on Minimum Age

NORMLEX

Information System on International Labour Standards [Search](#) | [User guide](#) | [Glossary](#)

C138 - Minimum Age Convention, 1973 (No. 138)

Convention concerning Minimum Age for Admission to Employment (Entry into force: 19 Jun 1976)

Adoption: Geneva, 58th ILC session (26 Jun 1973) - Status: Up-to-date instrument (Fundamental Convention).

Convention currently open for denunciation: 19 Jun 2016 - 19 Jun 2017

Display in: [French](#) - [Spanish](#) - [Arabic](#) - [German](#) - [Portuguese](#) - [Russian](#) - [Chinese](#)

Go to article : [1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#) [11](#) [12](#) [13](#) [14](#) [15](#) [16](#) [17](#) [18](#)

Preamble

The General Conference of the International Labour Organisation,

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

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

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

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

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

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

Article 1

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

Article 2

1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.
2. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified.
3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.
4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.
5. Each Member which has specified a minimum age of 14 years in pursuance of the provisions of the preceding paragraph shall include in its reports on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation a statement--
 - (a) that its reason for doing so subsists; or
 - (b) that it renounces its right to avail itself of the provisions in question as from a stated date.

Article 3

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

Article 4

1. In so far as necessary, the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, may exclude from the application of this Convention limited categories of employment or work in respect of which special and substantial problems of application arise.
2. Each Member which ratifies this Convention shall list in its first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation any categories which may have been excluded in pursuance of paragraph 1 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the

position of its law and practice in respect of the categories excluded and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.

3. Employment or work covered by Article 3 of this Convention shall not be excluded from the application of the Convention in pursuance of this Article.

Article 5

1. A Member whose economy and administrative facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially limit the scope of application of this Convention.

2. Each Member which avails itself of the provisions of paragraph 1 of this Article shall specify, in a declaration appended to its ratification, the branches of economic activity or types of undertakings to which it will apply the provisions of the Convention.

3. The provisions of the Convention shall be applicable as a minimum to the following: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.

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

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

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

Article 6

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

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

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

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

Article 7

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

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

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

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

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

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

Article 8

1. After consultation with the organisations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.

2. Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.

Article 9

1. All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.

2. National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention.

3. National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.

Article 10

1. This Convention revises, on the terms set forth in this Article, the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965.

2. The coming into force of this Convention shall not close the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, or the Minimum Age (Underground Work) Convention, 1965, to further ratification.

3. The Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, and the Minimum Age (Trimmers and Stokers) Convention, 1921, shall be closed to further ratification when all the parties thereto have consented to such closing by ratification of this Convention or by a declaration communicated to the Director-General of the International Labour Office.

4. When the obligations of this Convention are accepted--

(a) by a Member which is a party to the Minimum Age (Industry) Convention (Revised), 1937, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention,

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

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

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

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

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

if and when this Convention shall have come into force.

5. Acceptance of the obligations of this Convention--

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

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

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

if and when this Convention shall have come into force.

Article 11

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

Article 12

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

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Article 13

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

Article 14

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

Article 15

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

Article 16

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

Article 17

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13 above, if and when the new revising Convention shall have come into force;
 - (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 18

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

See related
<i>Constitution</i>
Constitution Article 22

See also
Ratifications by country
Submissions to competent authorities by country

Appendix C:
ILO Convention 182 on
Worst Forms of Child Labour

NORMLEX

Information System on International Labour Standards [Search](#) | [User guide](#) | [Glossary](#)

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Entry into force: 19 Nov 2000)

Adoption: Geneva, 87th ILC session (17 Jun 1999) - Status: Up-to-date instrument (Fundamental Convention).

Next period during which the Convention may be denounced: 19 Nov 2020 - 19 Nov 2021

Display in: [French](#) - [Spanish](#) - [Arabic](#) - [German](#) - [Portuguese](#) - [Russian](#) - [Chinese](#)

Go to article : [1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#) [11](#) [12](#) [13](#) [14](#) [15](#) [16](#)

Preamble

The General Conference of the International Labour Organization,

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

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

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

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

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

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

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

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

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

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

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

Article 1

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

Article 2

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

Article 3

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

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

Article 4

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

Article 5

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

Article 6

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

Article 7

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

Article 8

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

Article 9

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

Article 10

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.
2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

Article 11

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

Article 12

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

Article 13

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

Article 14

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

Article 15

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides --
 - (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;
 - (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 16

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

See related
<i>Constitution</i>
Constitution Article 22

Appendix D:
ILO Recommendation 146 on
Minimum Age

NORMLEX

Information System on International Labour Standards [Search](#) | [User guide](#) | [Glossary](#)

R146 - Minimum Age Recommendation, 1973 (No. 146)

Recommendation concerning Minimum Age for Admission to Employment

Adoption: Geneva, 58th ILC session (26 Jun 1973) - Status: Up-to-date instrument.

Display in: [French](#) - [Spanish](#) - [Arabic](#) - [German](#) - [Russian](#)

Preamble

The General Conference of the International Labour Organisation,

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

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

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

Having adopted the Minimum Age Convention, 1973, and

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

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

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

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

I. National Policy

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

2. In this connection special attention should be given to such areas of planning and policy as the following:
 - (a) firm national commitment to full employment, in accordance with the Employment Policy Convention and Recommendation, 1964, and the taking of measures designed to promote employment-oriented development in rural and urban areas;
 - (b) the progressive extension of other economic and social measures to alleviate poverty wherever it exists and to ensure family living standards and income which are such as to make it unnecessary to have recourse to the economic activity of children;
 - (c) the development and progressive extension, without any discrimination, of social security and family welfare measures aimed at ensuring child maintenance, including children's allowances;
 - (d) the development and progressive extension of adequate facilities for education and vocational orientation and training appropriate in form and content to the needs of the children and young persons concerned;
 - (e) the development and progressive extension of appropriate facilities for the protection and welfare of children and young persons, including employed young persons, and for the promotion of their development.
3. Particular account should as necessary be taken of the needs of children and young persons who do not have families or do not live with their own families and of migrant children and young persons who live and travel with their families. Measures taken to that end should include the provision of fellowships and vocational training.
4. Full-time attendance at school or participation in approved vocational orientation or training programmes should be required and effectively ensured up to an age at least equal to that specified for admission to employment in accordance with Article 2 of the Minimum Age Convention, 1973.
5.
 - (1) Consideration should be given to measures such as preparatory training, not involving hazards, for types of employment or work in respect of which the minimum age prescribed in accordance with Article 3 of the Minimum Age Convention, 1973, is higher than the age of completion of compulsory full-time schooling.
 - (2) Analogous measures should be envisaged where the professional exigencies of a particular occupation include a minimum age for admission which is higher than the age of completion of compulsory full-time schooling.

II. Minimum Age

6. The minimum age should be fixed at the same level for all sectors of economic activity.
7.
 - (1) Members should take as their objective the progressive raising to 16 years of the minimum age for admission to employment or work specified in pursuance of Article 2 of the Minimum Age Convention, 1973.
 - (2) Where the minimum age for employment or work covered by Article 2 of the Minimum Age Convention, 1973, is still below 15 years, urgent steps should be taken to raise it to that level.
8. Where it is not immediately feasible to fix a minimum age for all employment in agriculture and in related activities in rural areas, a minimum age should be fixed at least for employment on plantations and in the other agricultural undertakings referred to in Article 5, paragraph 3, of the Minimum Age Convention, 1973.

III. Hazardous Employment or Work

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

10.

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

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

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

IV. Conditions of Employment

12.

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

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

13.

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

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

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

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

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

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

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

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

V. Enforcement

14.

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

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

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

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

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

15. Special attention should be paid--

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

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

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

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

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

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

See related

See also

Submissions to competent authorities by country

Appendix E:

ILO Recommendation 190 on
Worst Forms of Child Labour

NORMLEX

Information System on International Labour Standards [Search](#) | [User guide](#) | [Glossary](#)

R190 - Worst Forms of Child Labour Recommendation, 1999 (No. 190)

Recommendation concerning the prohibition and immediate action for the elimination of the worst forms of child labour

Adoption: Geneva, 87th ILC session (17 Jun 1999) - Status: Up-to-date instrument.

Display in: [French](#) - [Spanish](#) - [Arabic](#) - [German](#) - [Russian](#) - [Chinese](#)

Preamble

The General Conference of the International Labour Organization,

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

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

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

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

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

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

I. Programmes of action

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

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

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

(c) giving special attention to:

(i) younger children;

(ii) the girl child;

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

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

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

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

II. Hazardous work

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

(a) work which exposes children to physical, psychological or sexual abuse;

(b) work underground, under water, at dangerous heights or in confined spaces;

(c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;

(d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;

(e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

4. For the types of work referred to under Article 3(d) of the Convention and Paragraph 3 above, national laws or regulations or the competent authority could, after consultation with the workers' and employers' organizations concerned, authorize employment or work as from the age of 16 on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.

III. Implementation

5.

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

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

- (3) Relevant data concerning violations of national provisions for the prohibition and elimination of the worst forms of child labour should be compiled and kept up to date.
6. The compilation and processing of the information and data referred to in Paragraph 5 above should be carried out with due regard for the right to privacy.
7. The information compiled under Paragraph 5 above should be communicated to the International Labour Office on a regular basis.
8. Members should establish or designate appropriate national mechanisms to monitor the implementation of national provisions for the prohibition and elimination of the worst forms of child labour, after consultation with employers' and workers' organizations.
9. Members should ensure that the competent authorities which have responsibilities for implementing national provisions for the prohibition and elimination of the worst forms of child labour cooperate with each other and coordinate their activities.
10. National laws or regulations or the competent authority should determine the persons to be held responsible in the event of non-compliance with national provisions for the prohibition and elimination of the worst forms of child labour.
11. Members should, in so far as it is compatible with national law, cooperate with international efforts aimed at the prohibition and elimination of the worst forms of child labour as a matter of urgency by:
- (a) gathering and exchanging information concerning criminal offences, including those involving international networks;
 - (b) detecting and prosecuting those involved in the sale and trafficking of children, or in the use, procuring or offering of children for illicit activities, for prostitution, for the production of pornography or for pornographic performances;
 - (c) registering perpetrators of such offences.
12. Members should provide that the following worst forms of child labour are criminal offences:
- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
 - (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; and
 - (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties, or for activities which involve the unlawful carrying or use of firearms or other weapons.
13. Members should ensure that penalties including, where appropriate, criminal penalties are applied for violations of the national provisions for the prohibition and elimination of any type of work referred to in Article 3(d) of the Convention.
14. Members should also provide as a matter of urgency for other criminal, civil or administrative remedies, where appropriate, to ensure the effective enforcement of national provisions for the prohibition and elimination of the worst forms of child labour, such as special supervision of enterprises which have used the worst forms of child labour, and, in cases of persistent violation, consideration of temporary or permanent revoking of permits to operate.
15. Other measures aimed at the prohibition and elimination of the worst forms of child labour might include the following:

- (a) informing, sensitizing and mobilizing the general public, including national and local political leaders, parliamentarians and the judiciary;
- (b) involving and training employers' and workers' organizations and civic organizations;
- (c) providing appropriate training for the government officials concerned, especially inspectors and law enforcement officials, and for other relevant professionals;
- (d) providing for the prosecution in their own country of the Member's nationals who commit offences under its national provisions for the prohibition and immediate elimination of the worst forms of child labour even when these offences are committed in another country;
- (e) simplifying legal and administrative procedures and ensuring that they are appropriate and prompt;
- (f) encouraging the development of policies by undertakings to promote the aims of the Convention;
- (g) monitoring and giving publicity to best practices on the elimination of child labour;
- (h) giving publicity to legal or other provisions on child labour in the different languages or dialects;
- (i) establishing special complaints procedures and making provisions to protect from discrimination and reprisals those who legitimately expose violations of the provisions of the Convention, as well as establishing helplines or points of contact and ombudspersons;
- (j) adopting appropriate measures to improve the educational infrastructure and the training of teachers to meet the needs of boys and girls;
- (k) as far as possible, taking into account in national programmes of action:
 - (i) the need for job creation and vocational training for the parents and adults in the families of children working in the conditions covered by the Convention; and
 - (ii) the need for sensitizing parents to the problem of children working in such conditions.

16. Enhanced international cooperation and/or assistance among Members for the prohibition and effective elimination of the worst forms of child labour should complement national efforts and may, as appropriate, be developed and implemented in consultation with employers' and workers' organizations. Such international cooperation and/or assistance should include:

- (a) mobilizing resources for national or international programmes;
- (b) mutual legal assistance;
- (c) technical assistance including the exchange of information;
- (d) support for social and economic development, poverty eradication programmes and universal education.

See related

See also

Submissions to competent authorities by country
