



CHILD LABOUR LEGISLATION: PROTECTING THE RIGHTS OF THE CHILD



**BRIEFING
NOTE**

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INTRODUCTION

The framework for the comprehensive protection for children's rights is based on the United Nations Convention on the Rights of the Child (CRC)¹ and other complementary international human rights treaties. Since the adoption of the CRC to date, 196 Member States have acceded to and ratified this international instrument. As a result, significant impact has been seen on the harmonisation of domestic legal frameworks, and adoption of complementary legal norms. This legal development has in turn had an impact on policy and programmatic frameworks and should also impact social investment and institutional reform. Regrettably, the only State member that still not yet ratify the CRC is the United States of America.

It can be affirmed that the CRC is the most important international treaty for the protection of children and adolescents and their recognition as subjects of rights. It is also the most ratified international human rights treaty in history. It has three optional protocols: the two protocols adopted in 2000 are the Optional Protocol on the Convention on Rights of the Child on the involvement of children in armed conflict², the Optional Protocol on the Convention on Rights of the Child on the sale of children, child prostitution and child pornography and the one adopted in 2011 is the so-called 3rd Protocol or the Optional Protocol on the Convention on the Rights of the Child on a communications procedure³.

Despite this, there are significant challenges in its implementation and the growing number of human rights violations committed by Member States, through lack of protection, action or inaction, questions us about the commitments and obligations assumed and about the role of children and adolescents for the States themselves and for societies in general.

2024 reinforces the sense of continuing to strengthen human rights and not only because of the challenging context of the reality of these rights at a global level, but also as a window of opportunities we can find several key celebrations: the 35th anniversary of the CRC; 76th years since the Universal Declaration of Human Rights⁴; 100 years since the Geneva Declaration or Declaration of the Rights of the Child⁵. In terms of child labour, is the 25th years since the most ratified ILO Convention on the worst forms of child labour: Convention 182⁶ and its Recommendation 190.

1 <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

2 <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-involvement-children>

3 <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-communications>

4 <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

5 <https://www.humanium.org/en/geneva-declaration/>

6 https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182

ACHIEVEMENTS AND CHALLENGES OF C182 OVER 25 YEARS

Social organisations, in particular from the broad social mobilisation driven by the Global March, generated an unprecedented initiative, where marches, events, mobilisations and the participation of working children and former child workers took place in each of the continents, concluding in a national, regional and global physical march and arriving at a meeting point in Geneva, breaking into the discussions of the ILO Conference and provoked the adoption of Convention 182 on the worst forms of child labour. In addition to the ratification, this social mobilisation succeeded in overcoming conceptual differences and made it possible for multiple stakeholders to unite around the worst forms of child labour. Subsequently, the countries that ratified it, developed national committees on child labour and the protection of adolescents, where agreements were generated to define protocols and standards that would indicate which were the worst forms of child labour and which were the hazardous forms of child labour, among other actions.



Organised civil society has also contributed to the generation of knowledge, to the development of studies, consultations, analysis of projects of law and policies, and its results have been able to impact the development and implementation of campaigns, comprehensive approaches and methodologies, as well promoted the articulated work and encouraged an involved children and adolescents' workers and their families in the different steps.

So far what has been achieved is very significant, its sustainability and response are contrasted by the persistence of challenges. In order to continue advancing in prevention and elimination of child labour, to protect adolescent workers and to eliminate hazardous work, some aspects must be taken into account:

- a) there should be clear and systemic mechanism in place for the tripartite to articulate with the civil society organizations and vice versa, working together with an articulating an efficient response, addressing the causes of child labour, such as education, poverty, social exclusion, gender-based violence, inequity, cultural and traditional aspects among others that have been identified;
- b) the informality of work where 90% of children and adolescents are working, should be at the centre of the responses;

- c) decent and dignified work for adolescents and their families without any discrimination should be promoted and created;
- d) complexity of the phenomena that are becoming increasingly intertwined must need to be tackle.

C182 incorporated an element that is the relationship between work and economic activities, with sexual exploitation for commercial purposes, with the relationship between work and migration, modern slavery such as trafficking for sexual and labour purposes and with recruitment. Today, the criminal organisations are recruiting children and adolescents at an increasingly younger age, and if we do not develop offers and proposals for adolescents and conditions for children, we will be losing entire generations. This is aggravated in societies where education is compulsory until the third year of high school and the age of admission to employment begins at 14 or 15 years of age, in accordance with the provisions of Convention 138⁷ and its recommendation 146, and where adolescents are unable to find alternatives or opportunities for their personal, educational and professional development.

Therefore, preventing and eliminating child labour and protecting adolescent workers requires sustained and comprehensive responses to structural and complex challenges in an articulated manner. Otherwise, they will become increasingly difficult to address, irrespective of the sector in which it occurs.

EFFORTS TO BE HIGHLIGHTED

Many efforts have been developed, some with greater impact than others, but it is interesting to highlight some that have common criteria, such as the development of actions that draw up articulating lines, that involve multi-stakeholders and that have a national impact, thus generating simultaneous actions and from a systemic logic.



7 https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138

As a result of the World Conferences against child labour, common actions have been adopted, including the development of Roadmaps led by Ministries of Labour and, failing that, by the National Commissions established for the prevention and elimination of child labour and the protection of adolescent workers.

The challenge is whether these roadmaps have sufficient resources and investment so that the actions represent a change, and the impact and progress can be measured, and whether with the targets set in line with the 2030 Agenda and the SDG and its Target 8.7 and the others that are interrelated, it will be possible to achieve them.

Although Costa Rica has not been able to provide it with resources, it has been systematic and rigorous in its follow-up and in giving a leading and relevant role to the Ministry of Labour and Social Security, which is responsible for its development and for working together with other stakeholders to review and develop routes with defined indicators and deadlines as well as concrete and achievable deliverables.

In terms of child labour in the fishery sector, the Ministry of Labour has led actions for school scholarships for working adolescents, and a proposal to improve the protection of children and adolescents involved artisan work in small-scale fishing is currently under review.

Another interesting action is for Spanish State in adopting Organic Law 8/2021⁸, of 4 June, for the comprehensive protection of children and adolescents against violence, which, although not specific to Child labour, addresses the different forms of violence that affect children and adolescents, the different environment where occurs and defines responsibilities and obligations for the different sectors.

This law recognises for the first time the right of children and adolescents to grow up free from violence. It is the starting point for a social change that depends on the legislative initiative, the strategy of the public and private actors involved, and the resources that will be made available⁹.

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8 <https://www.boe.es/buscar/act.php?id=BOE-A-2021-9347>

9 <https://www.il3.ub.edu/noticias/los-logros-y-los-retos-de-la-ley-82021-de-proteccion-la-infancia-y-la-adolescencia>

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