



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/Sub.2/2004/34
10 June 2004

ENGLISH
Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-sixth session
Item 6 (b) of the provisional agenda

SPECIFIC HUMAN RIGHTS ISSUES

CONTEMPORARY FORMS OF SLAVERY

**Report of the Secretary-General on the implementation
of the Programme of Action for the Elimination of the
Exploitation of Child Labour, submitted pursuant to
Sub-Commission resolution 1997/22**

Summary

The report is based on a summary of responses to a note verbale sent to Member States, United Nations specialized agencies, funds and programmes as well as to international financial institutions, inviting them to provide information on their implementation of the Programme of Action. The report presents information on measures taken to implement the Programme of Action for the Elimination of the Exploitation of Child Labour adopted by the Commission on Human Rights in 1993.

Many responses provide information about minimum legal ages for specific types of work or number of hours allowed for work of children under 18. Some responses also highlight the importance given to ensuring that work does not interfere with schooling and measures taken to prevent school leaving as a means of discouraging child labour. In some cases, information is provided on the legal obligation of parents to ensure the protection of their children from abuse and exploitation.

CONTENTS

	<i>Page</i>
Introduction	4
I. REPLIES RECEIVED FROM GOVERNMENTS	
Cuba	4
Dominica	5
Georgia	5
Mauritius	5
Mexico	6
Morocco	8
Nicaragua.....	9
Serbia and Montenegro.....	10
II. INFORMATION RECEIVED FROM UNITED NATIONS BODIES, SPECIALIZED AGENCIES AND INTERGOVERNMENTAL ORGANIZATIONS	
United Nations Children's Fund	10
World Bank	10

Introduction

1. The Commission on Human Rights, in adopting the Programme of Action for the Elimination of the Exploitation of Child Labour (resolution 1993/79, annex), recommended that all States should adopt, as a matter of priority, the necessary legislative and administrative measures to implement the Programme of Action at the national and international levels, and requested the Sub-Commission to submit to it every two years a progress report on the implementation of the Programme of Action by all States.
2. In its resolution 2003/3 (para. 28), the Sub-Commission requested the Secretary-General to invite all States to inform the Working Group on Contemporary Forms of Slavery of measures adopted to implement the Programme of Action and to submit a report thereon to the Sub-Commission at its fifty-sixth session and to the Commission on Human Rights at its sixty-first session (2005).
3. In order that the Working Group might examine this matter at its twenty-ninth session, the Secretary-General sent notes verbales to Governments and international institutions requesting the desired information. As of 24 May 2004, replies had been received from the Governments of Cuba, Dominica, Georgia, Mauritius, Mexico, Morocco, Nicaragua and Serbia and Montenegro as well as from UNICEF and the World Bank.

I. REPLIES RECEIVED FROM GOVERNMENTS

Cuba

[Original: Spanish]
[6 October 2003]

1. The Government of Cuba, in its reply, described the various policies, programmes and laws which have been put into place to ensure the physically, mentally and socially healthy development of children. It described the system of protection of children and adolescents by the Cuban legal system, which is strongly linked to constitutional principals that regulate the legal relations in the family, community and civil society of Cuba.
2. With regard to child labour, the Government pointed out that education is mandatory until the age of 16, and the national education system provides free and universal access to all levels of education. Child labour was eradicated in the 1960s throughout the country. The Cuban system is based on social justice and guarantees to children the enjoyment of childhood, an adequate standard of living and the enjoyment of human rights as included in the Constitution and in international treaties. The NGO, Federation of Cuban Women, works with parents to prevent children dropping out of school.
3. Chapter IX of the labour code, authorizes, exceptionally, for adolescents of 15 and 16 years of age who have proven incapable of continuing with their studies, work that will provide on-the-job training which will enable them to enter the labour force at age 17. Articles 220 and 222 cover special measures for such adolescents, while articles 223 to 225 prohibit the involvement of such adolescents in work which might be harmful to their physical and mental development.

4. In addition, the Government is currently considering the possibility of ratifying ILO Convention No. 182 concerning prohibition and immediate action for the elimination of the worst forms of child labour.

Dominica

[Original: English]
[28 April 2004]

1. The Government of the Commonwealth of Dominica provided information on measures it had taken to implement the Programme of Action, which included the Employment of Children (Prohibition) Act. Under that act, a child is defined as a person under the age of 12 and under section 3 of the Act employment is prohibited for children younger than 12 years of age. However, the prohibition does not include parents or guardians engaging their children in domestic or agricultural work of a light nature at home.

2. The Employment of Women, Young Persons and Children Act states that “No child shall be employed or work in any public or private industrial undertaking or in any branch thereof, other than an undertaking in which only members of the same family are employed.” This act defines a child as a person under the age of 14. The same act states that no child shall be employed or work on any ship and states that “no young person [under the age of 18] shall be employed or work during the night in any public or private industrial undertaking other than an undertaking in which members of the same family are employed”.

Georgia

[Original: English]
[19 April 2004]

1. In its reply, the Government of Georgia referred to a study of economically active children between the ages of 7 and 17 and provided statistics. Of the total population in this age range, 4.5 per cent are engaged in some form of economic activity; however, the lowest age at which a child may enter the labour force is 15. The vast majority, 70.3 per cent, are working in the agricultural sector, with an average workday of 5.8 hours.

Mauritius

[Original: English]
[14 May 2004]

1. In addition to having ratified key ILO Conventions such as Nos. 29, 105, 138 and 182 that concern forced and child labour, the Government of Mauritius has strengthened legal and administrative measures to protect children from all forms of child labour. For example:

- The Ministry of Labour and Industrial Relations has reinforced its enforcement mechanisms and regular labour inspections as a deterrent to the practice;

- The Ministry of Education is implementing a programme entitled “Zone d’éducation prioritaire” to cater for children in deprived regions in order to reduce the rate of dropouts. Eleven years of compulsory schooling and the construction of new secondary schools was introduced in order to provide adequate educational opportunities to children and reduce their risk of abuse and exploitation. The Industrial and Vocational Board established in 1988 under the Industrial and Vocational Training Act, runs courses for youth who have dropped out of school;
- The Ministry of Women’s Rights, Child Development and Family Welfare, through its Child Development Unit, set up in 1995 to enforce the Child Protection Act, implements policies and programmes pertaining to the development and protection of children;
- The Labour Act, the Occupational Safety, Health and Welfare Act and the Merchant Shipping Act 1986, make provisions for the protection of the health and safety of persons under the age of 18 engaged in employment with regard to hours of work, work on machinery and on board ships.

2. Mechanisms which exist to protect human rights and children include a National Human Rights Commission, the Protection of Human Rights Act and an Ombudsperson for Children Act which can deal with complaints regarding violations of children’s rights.

Mexico

[Original: Spanish]
[6 May 2003]

1. The Government of Mexico provided information concerning various obligations it had accepted under international instruments that had then become part of national legislation such as those concerning child labour: for example, the Convention on the Rights of the Child as well as ILO Conventions Nos. 13, 16, 58, 90, 112, 123 and 124 have shaped national legislation. ILO Convention 182 was ratified in 2000.
2. Under the Constitution, articles 123 (ii), (iii) and (xi) forbid employment of children under 14; children between 14 and 16 years cannot work more than six hours daily; night work and overtime are not allowed for those under 16.
3. Article 4 of the constitution asserts the obligation of parents to safeguard the rights of minors to their needs being met and to physical and mental health, and that legislation will determine the forms of protection which will be handled by public institutions.
4. The Federal Labour Code contains specific provisions, and a full chapter, dealing with child labour. Key provisions are those banning:
 - Work by children under 14 years of age (articles 5 and 22 of the Federal Labour Law);

- Work by children under age 16 after 10 p.m. (art. 5);
- Industrial night work performed by minors between the ages of 14 and 18 (art. 5);
- Work in shops selling intoxicating drinks for immediate consumption, work likely to affect the morality of children, work underground or undersea, dangerous and unhealthy work and that exceeding their strength or likely to affect normal physical development;
- Overtime work for those under the age of 16.

5. The Federal Labour Law regulates formal work relations between employers and children, with regard to matters such as vacation time and the length of the work day and requires employers to maintain a register of special inspection, certificates to verify that child employees are fit for work and assign work hours so that they do not interfere with academic or training activities. The Federal Regulations on Safety, Hygiene and Environment at Work includes prevention measures to ensure care for the physical and mental development of minors in the work place. It strictly regulates work performed by minors in enterprises under federal jurisdiction. Federal labour law is applicable throughout the country; its enforcement is the responsibility of labour agencies at federal level except for activities specifically excluded by law as being within the competence of the central Government. Thus, the Secretariat of Labour and Social Protection monitors enforcement of labour standards applicable to children between 14 and 18 years of age performing work subject to federal jurisdiction. Under its Programme of Attention to the Protection and Development of Children, its General Direction of Federal Labour Inspection, maintains a service for youth who wish to enter the job market where information on conditions, requirements, regulations and rights is available. Such guidance was provided to 1,238 minors in 2002.

6. In practice, protection is provided through work permits for minors aged 14 to 16, which can only be provided based on:

- (a) Proof that the minor has completed his compulsory basic education or will do so without interference from work activities (article 22 of the Federal Labour Code);
- (b) Written consent from a parent or guardian, or in their absence from a trade union, labour inspector, or other relevant authority (article 23 of the Federal Labour Code);
- (c) Medical certification that the minor is physically fit to work (article 174 of the Federal Labour Law).

The federal labour inspectorate provided 481 such permits in 2002.

7. With respect to minors between the age of 16 and 18, the Federal Labour Law establishes that the only limitations on their work are those set by article 29, banning services performed outside of the country, except for technical specialists, athletes and artists; article 175 banning industrial night work, and article 191 banning certain jobs on ships.

8. The labour secretariat's Department of Equity and Gender also undertakes actions to raise awareness about the need for employers to respect labour standards. Such activities include distributing posters and cards to combat child labour and providing information and guidance on working children to institutions and the public.

9. Within an inter-institutional programme on street children, brochures were distributed on the rights of working children. There is a specific programme on elimination of marginal urban work which implements in 100 cities activities to promote informal education alternatives for marginalized working urban children, which seeks integration or reintegration of the children within their families and schools.

10. The Agenda for Immediate Action in Human Rights adopted by the Human Rights Promotion and Protection Unit established in 2002 within the Department of the Interior seeks to coordinate and set priorities for action in favour of human rights at the federal level. It includes promotion of the ratification of ILO Convention No. 138 on minimum age for work. It also aims to distribute simple education materials on the legal and institutional framework to address cases of exploitation and abuse of children (including family violence).

Morocco

[Original: French]
[28 November 2004]

1. Morocco provided information on the main functions of the Ministerial Department responsible for children and various activities intended to protect the rights of the child with respect to various forms of abuse such as those relating to child labour.

2. According to the ministry charged with economics and planning, in 1995 there existed 642,140 children aged younger than 15 years old engaged in the economic sector with the most dangerous forms of work such as handicraft production and domestic work.

3. According to the Kingdom, much effort has been deployed with a view to eliminate child labour and protect child victims of child labour. Such actions include the adoption and implementation by the Government of domestic legislation, the content of which is consistent with its legal obligations pursuant to its accession to ILO Conventions No. 138, the Minimum Age Convention and ILO Convention No. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour.

4. Moreover, the civil society with the support of international partners has been involved in various aspects of the struggle against child labour. These actions include sensitization campaigns, studies, conferences, and other efforts such as that of ensuring that children engaged in labour gain access to non-formal education.

Nicaragua

[Original: Spanish]
[28 May 2004]

1. In its reply, the Government of Nicaragua described the legal framework for child labour, which includes the Constitution; the Labour Code; the Code of Children and Adolescents (Law No. 287 - Annex 1); the Penal Code and Convention on the Rights of the Child (which is mentioned in the Constitution). Article 84 of the Constitution prohibits minors from engaging in work that could affect their normal development or interfere with their compulsory education. Children and adolescents are protected from all types of economic and social exploitation under the Constitution and Labour Code.
2. National legislation also addresses child labour issues as covered under ILO Conventions Nos. 29, 105, 138 and 182, all ratified by Nicaragua. Title VI of the Labour Code was revised in 2003 in order to harmonize its provisions with the ILO Conventions.
3. In 1934 Nicaragua ratified ILO Conventions on minimum ages for certain types of work such as C-5 (industrial work); C-7 (maritime work); C-10 (agricultural work); and C-15 (stokers on ships). These Conventions were replaced by the ratification in 1981 of ILO Convention No. 138 on minimum age for employment.
4. The obligation to develop policies to progressively abolish child labour is implemented through the gradual raising of the minimum employment age and specific prohibitions to safeguard the rights of working children. Given its developing economy, Nicaragua makes use of the exceptions allowed by ILO Convention No. 138, and sets the following age limits: while the minimum age for employment is 14, the minimum is 16 for certain types of work such as that done at sea. Work for children between 14 and 16 requires parental permission and supervision by the Ministry of Labour. The minimum employment age is 18 for a wide variety of occupations considered dangerous or harmful for the physical and psychological development of children. In addition, the workday for adolescents cannot exceed 6 hours and 30 per week. Night and overtime work is prohibited and work hours should be compatible with school hours. There is also a National Strategic Plan for the Prevention and Eradication of Child Labour and the Protection of Adolescent Workers.
5. Adolescents also have rights such as equal pay for equal work, payment in legal tender, protection from work-related risks, working conditions for children with disabilities ensuring adequate safety and protection, ability to participate in a labour union, right to social security and health programmes, and to appropriate training to favour their development.
6. In its reply, the Government of Nicaragua provided also detailed information on the adoption of a large number of measures and activities to combat child labour, focusing on legal review, information gathering, consultation, planning, awareness-raising and training.

Serbia and Montenegro

[Original: English]
[24 June 2003]

1. National legislation prohibits exploitation and forced labour. Article 118 of the Criminal Code of the Republic of Serbia stipulates that “the parent, adoptive parent, foster parent or any other person abusing a minor or forcing him/her to do excessive work or work inappropriate to his/her age or to engage in other activities harmful to his/her development, shall be punished”. The number of sentences pronounced on this basis is statistically negligible. The labour laws of Serbia and Montenegro stipulate that minor children over age 15 may be employed and receive payment with the consent of their parents.

II. INFORMATION RECEIVED FROM UNITED NATIONS BODIES, SPECIALIZED AGENCIES AND INTERGOVERNMENTAL ORGANIZATIONS

UNICEF

[Original: English]
[1 May 2003]

1. In its reply, UNICEF explained that practical action against the worst forms of child labour is stressed in its Medium-Term Strategic Plan (MTSP) for 2002-2005. For example, it cited joint work being done in India by ILO and UNICEF in collaboration with the Government to implement a sustainable advocacy campaign. In Nepal, UNICEF collaborated with ILO to develop a rapid assessment tool. Regarding the use of supervisory bodies, UNICEF had begun discussions with ILO on how the Committee of Experts and the Committee on the Rights of the Child could better investigate the worst forms of child labour.

World Bank

[Original: English]
[22 March 2004]

1. In its reply, the World Bank explained that while it did not specifically work on issues of contemporary forms of slavery, it has undertaken some research on topics such as child and bonded labour. The World Bank web site has a page on the Global Child Labour Programme. The International Finance Corporation has a policy on forced and child labour, which can be found on its web site.
