

B Y T H E
**SWEAT
& TOIL**
O F C H I L D R E N

Volume II:

The Use of Child Labor in
U.S. Agricultural Imports
& Forced and Bonded Child Labor



U.S. Department of Labor
Bureau of International Labor Affairs
1995

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By the Sweat and Toil of Children
Volume II:

*The Use of Child Labor in U.S. Agricultural Imports
&
Forced and Bonded Child Labor*

A Report to the Committee on Appropriations
U.S. Congress



U.S. Department of Labor
Bureau of International Labor Affairs
Joaquin F. Otero, Deputy Under Secretary for International Affairs
1995

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I. Executive Summary

Virtually every country in the world has national laws that limit the extent to which children may be employed. Several international conventions bar children from performing work that is likely to be hazardous, that interferes with a child's education, or that harms a child's health, or physical, mental, spiritual, or moral development. Most countries have education laws that endorse the principle that the proper place for a child is the schoolroom, not the workplace.

Nevertheless, the use of illegal child labor is widespread. This report, the second of two Congressionally mandated reports by the U.S. Department of Labor on the exploitation of child labor, is about two widely practiced forms of child labor that have for the most part remained inexplicably beyond public scrutiny. These are (i) children working in commercial agriculture and fishing, and (ii) child slavery, in the form of forced and bonded labor.

Child agricultural laborers and child slaves are largely invisible. Their employment is rarely reported by their employers and only occasionally noted by government surveys and censuses. Often working in the shadows, where government and society rarely recognizes their existence, child agricultural workers and child slaves often work long hours, sometimes under inhuman conditions, for little or no pay.

Both child agricultural workers and child slaves are often the source of large profits for others. The exploitation of child labor may enable entire industries to profit, as child workers provide employers with a low-cost and easily subjugated labor force. In Brazil, an estimated 3 million children work on plantations that produce sugar cane, tea, tobacco, sisal, and other agricultural products. In the brick kiln industry in Pakistan, which is said to operate almost exclusively on the basis of debt bondage, over half the workers are children.

Work for these children often is harsh and dangerous. Repeated injuries to children who cut sugar cane usually incapacitate them at an early age and limit them to an average working life of 12 years. Children in glass factories in India work in unventilated factories where furnace temperatures reach 1,400 to 1,600 degrees celsius.

Child slavery is hidden because it is illegal. It exists because those who practice it are either able to evade the law, or because governments are either unwilling or unable to enforce the law. Child slaves mine gold in the jungle of Peru, knit carpets by hand in southern Asia, and work as prostitutes in Thai brothels. Millions of children -- mostly young

girls -- work as domestic servants in Asia, Latin America, and Africa. The girls often work extended hours, suffer harsh physical and psychological treatment, and are sometimes sexually abused.

By the Sweat and Toil of Children (Volume II) identifies a number of countries and industries where children have been reported either to be working in commercial agriculture or as forced or bonded laborers. The situations reviewed are not necessarily the only such cases. The choice of which countries or industries and practices to highlight reflects access to credible information and does not necessarily indicate that any particular country is the "worst" child labor violator.

In certain regions facts about child labor have been documented for years, and thus more information is available to report. In other areas where it is believed that the exploitation of child labor in commercial agriculture -- or the use of forced or bonded child labor -- exists, access to credible information has been difficult to compile due to 1) governments which do not allow a free press or nongovernmental organizations to report on the issue; 2) the intimidation of persons investigating situations of child labor; and 3) a lack of attention given to the subject. Although this report brings together much of the available information on child labor in commercial agriculture and forced or bonded child labor, further research is often needed to thoroughly document individual cases mentioned in the report as well as patterns and trends of child labor exploitation throughout the world. In some instances, problems of access are a major barrier to research.

Children in Commercial Agriculture

More children work in agriculture than any other economic sector. Large numbers of children may be found toiling in the fields and fisheries from daybreak until dusk. Many of these children work for commercial farms and plantations or fishing operations. Plantations, which produce commodities exclusively for export, employ 20 million persons, or 2 percent of the persons working in the agricultural sector in developing countries. Children make up an estimated 7 to 12 percent of the work force on plantations.

Among the products produced by children are cocoa, coffee, coconuts, cotton, fruit and vegetables, jasmine, palm oil, rubber, sisal, sugar cane, tea, tobacco, and vanilla. Children also dive for fish, work on fishing platforms and boats, and work in factories that process the fish.

The great majority of children in agriculture work as part of a family unit. In lieu of paying workers on a salary basis, many plantations pay workers either by the weight or the

quantity of the product collected. In some cases, minimum amounts of a product must be collected in order for any compensation to be paid. To ensure that this minimal amount is collected, or to maximize earnings, parents turn to their children.

Those children hired as full-time wage-laborers usually perform the same work as adult workers, but are typically paid one-half to one-third what is paid to adults doing comparable work.

Many children who work on farms and plantations attend school when they are not working, but the quality of rural schools is often low, the duration of children's attendance short, and the ability of children to concentrate and thrive in school, when they must perform arduous physical labor either before or after school, may be severely taxed.

Work days can be extremely long. Eleven hour days are reportedly the norm for children working on sisal plantations in Tanzania. Girls in one fish cleaning plant in India may work 12 hour days, while some children who shell shrimp in Thailand may work for 15 hours or longer, mostly squatting on the floor or sitting on a small bench.

Children in agriculture face many safety and health risks. Poisonous and disease-carrying insects and reptiles are constant threats to children on plantations. Fatigue is an ever present problem. Living conditions on plantations often include substandard hygienic conditions, unsafe drinking water, unclean sanitary facilities, and medical facilities that, if they exist at all, are often inadequate to treat the illnesses and injuries suffered by children.

Regular exposure to dangerous chemical fertilizers and pesticides pose another threat to children. In Brazil, children may be assigned to spread pesticides onto tea leaves. Children in South Africa have been seen spreading pesticides with their bare hands. In the Philippines, the use of pesticides and other toxic chemicals has been linked to retarded growth, disease, and malnutrition in children.

A large demand for cheap labor in agriculture, coupled with the availability of large numbers of children, accounts for the continued employment of minors. Employers opt for children because they can be hired for a fraction of what is paid to adult workers; they are plentiful in numbers in rural areas and already live on plantations; and they are considered to be more docile and more pliant than adult workers.

The large supply of available working children is a result of several economic and social factors, chief of which are: a real or perceived need on the part of families for additional income; a dearth of educational opportunities, an inability to pay for education,

or a belief on the part of parents that education is of little value; and a belief, in some countries, that child labor is beneficial to the child, the family, and the society in general.

Government policies -- or lack thereof -- and societal indifference also contribute to the use of child labor in commercial agriculture. In many countries, a lack of surveillance, enforcement, and intervention on the part of governments allow child labor to thrive. Even when violators are caught, penalties are often too small to induce employers to change their practices. And few governments place a high priority on establishing free, universal, and compulsory primary education in rural areas.

Children in Forced and Bonded Labor

Forced labor -- the enslavement of workers through the threat or use of coercion -- is found primarily in informal, unregulated or illegal sectors of the economy. The victims of forced labor are usually the most economically vulnerable and least educated members of society, such as minority ethnic or religious groups, the lowest social classes, or "scheduled" castes.

Forced child laborers receive little or no pay and have no control over their daily lives. They are often forced to work beyond their physical capacity and under conditions that threaten their health, safety and development. In many cases their most basic rights, such as freedom of movement and expression, are suppressed. They are often subjected to extreme physical and verbal abuse.

Bonded labor -- or debt bondage -- is a form of forced labor in which children enter into servitude as a result of some initial financial transaction. This most frequently occurs when, having no other security to offer, parents pledge their own labor or that of their child in return for a money advance or credit. Often, a parent takes a loan knowing that the entire family will be forced to work in return. High interest charges, low wages and deductions for missed work, mistakes, meals and lodging often trap poor families for life and create a never-ending, intergenerational system of debt and servitude.

Landless and near-landless households, as well as migrant laborers, are the main victims of bonded labor. With few resources to meet daily needs, and no alternative sources of credit available, parents are often forced to pledge their children's labor as payment or collateral on a debt. While parents may assume their children will be able to repay the debt out of future earnings, a combination of low wages and usurious interest rates often make repayment impossible. The child becomes bonded indefinitely.

Forced and bonded child labor can be found in all sectors of the economy. Bonded children working in the carpet industries of India, Pakistan, and Nepal may work up to 20 hours per day, seven days a week. They often sleep, eat and work in the same small, damp room, and are sometimes locked in at night. Forced to work in cramped positions for long periods of time in poorly-ventilated sheds filled with wool fluff and dust particles, many of the children suffer from skin ailments, chronic colds, respiratory problems, spine deformities, and weakened eyesight.

In the jungle of south-eastern Peru, children recruited by contractors to work for nine months in gold mines find they must continue to work well beyond that period to pay off the difference between their wages and the larger amount they owe the contractors for transportation to the mines, food, and medication. In 1991, common graves of child workers were uncovered. The corpses revealed that the youths had died of disease, work accidents such as falls, and contusions.

Poor, landless peasants and tenant farmers in rural areas borrow money and food from their landlord to live through the year. Loans are taken to meet the cost of daily needs or for expenses occasioned by ceremonial events such as marriages and funerals. In return, the peasants offer their labor or that of their children.

The forced labor of children occurs in the fishing industries of Indonesia, Sri Lanka, the Philippines, India, and Pakistan. In Indonesia, boys aged 10-18, some of whom are kidnapped, work on fishing platforms off the coast of Sumatra where they are held as virtual prisoners for up to three months at a time.

Forced child labor is also widespread in the informal service sector, particularly in the employment of child domestic servants and in the sex industry. Sometimes parents knowingly "sell" their children into such work, while in other cases children are fraudulently recruited or abducted.

There are many paths by which children may end up as prostitutes. Frequently, they are tricked or kidnapped, and then sold into prostitution: estimates are that 10,000 Burmese women and girls are trafficked into Thailand each year. The price paid by brothel owners -- \$400 to \$800 -- must be paid off by the young women themselves.

Some children in the sex industry are knowingly sold by their parents to recruiters to augment family income. Others are offered jobs by recruiters in the restaurant, hotel or entertainment industry, and then forced to prostitute themselves. Sometimes children who run away are lured into prostitution to survive on the streets. No matter what the cause, the

result is that they become prisoners of a large and profitable industry willing to sexually exploit children to satisfy a demand for child prostitutes.

Children forced to work as prostitutes are generally scarred for life. Occupational hazards such as AIDS, other sexually transmitted diseases, or brutal psychological and physical abuse often kill them before they reach adulthood.

Child domestic servants -- usually young girls -- are often hidden from public view. They are given or sold to families or distant relatives to serve as household help. They are recruited by brokers, placed by a friend or acquaintance, sent by their parents, offered by parents for a cash advance, adopted, or even kidnapped. Child domestic servants are often the first to rise in the morning and the last to go to sleep at night. They are sometimes treated harshly by their employers and subjected to beatings or sexual abuse.

Some child domestics are stolen outright. In Sudan, marauding "militias" from the north kidnap children while raiding tribal communities in the south of the country and transport the children to the north where the militias either keep them for their own use or sell them into domestic slavery.

A different form of child labor in the service sector is the use of young boys, usually kidnapped from southern Asia, as camel jockeys in Persian Gulf States. Sometimes glued or strapped to the camel's back, their cries of fright are perceived to propel the camel to run even faster. The boys are deliberately underfed to reduce their weight on the camel, and are sometimes subjected to sexual abuse and physical harassment.

Current Developments

Few major changes have occurred in the countries reviewed in the Department of Labor's 1994 report, *By the Sweat and Toil of Children (Volume I): The Use of Child Labor in U.S. Manufactured and Mined Imports*, which considered child labor in manufacturing and mining industries that export to the United States. Still, there are several positive developments to acknowledge. The issue of child labor is receiving heightened attention from the public, the media, academia, donor agencies, governments, NGOs, and international organizations such as the ILO and UNICEF. Interest in child labor has spawned action by consumers and industry worldwide and the subject is increasingly being debated by many governments and in various international fora. Some governments are introducing legislation to make primary education compulsory, while others are raising the number of years children are required to attend school. Numerous NGOs are developing and implementing programs to assist child workers and their families, including establishing small, non-formal education

programs for the children.

Two recent events are particularly worthy of note. The first is a historic agreement in Bangladesh to phase children out of the garment factories and place them in school. This agreement, signed on July 4, 1995, joins the forces of industry, NGOs, and international organizations such as the ILO and UNICEF in a humanitarian effort to provide child workers with the opportunity to go to school, while adult relatives are given preference to fill jobs vacated by children. The U.S. Department of Labor will provide a portion of the funds for this project through its FY 1995 contribution to the ILO's International Programme on the Elimination of Child Labor (IPEC).

The second development is the public pledge of the Labor Ministers of Non-Aligned Countries to eliminate child labor. In their "Delhi Declaration" of January 1995, the Ministers resolved that, "we are aware and hold that the practice of exploitative child labour wherever it is practiced is a moral outrage and an affront to human dignity . . . [w]e too are pro-actively committed to eliminate this practice in terms of the International Labour Conference, 1979 . . . giving immediate priority for total and de facto elimination of child labour in hazardous employments."

Conclusion

The United Nations Children's Fund, in its testimony at the Department of Labor's hearings on child labor, stated that "we are now seeing growing commitment and increased action toward the goal of eliminating exploitative child labour -- although there is no question that progress remains uneven and we obviously have a very long way to go to win back childhood for the world's laboring children. It is morally unacceptable to even think of going into the 21st century with the shame of child labour still on humanity's list of unresolved social issues."

This second report on the exploitation of child labor, in addition to the Department of Labor's \$2.1 million contribution to the ILO's IPEC program, reflects the high priority that the Department of Labor's Bureau of International Labor Affairs places on ending the shameful practice of child labor.

II. Introduction

A. Overview

This is the second of two Congressionally mandated reports by the U.S. Department of Labor on the exploitation of child labor.¹ The first report, entitled *By the Sweat and Toil of Children: Child Labor in American Imports*, identified child labor practices in manufacturing and mining industries which export to the United States.² This report reviews commonly practiced, and often egregious, forms of child labor: 1) the exploitation of children in commercial agriculture, and 2) forced or bonded child labor.

This report uses the International Labor Organization's (ILO) Convention No. 138 on the Minimum Age for Employment as its principal standard. Convention 138 sets 15 years as the minimum age for work in developed countries and 14 years in developing nations. Other provisions allow slightly younger children to perform "light work" which is not likely to harm their health or development, and does not prejudice their attendance at school. Convention 138 also prohibits any child under the age of 18 from undertaking work that "by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons."

A second standard is Article 32 of the U.N. Convention on the Rights of the Child. It establishes the right of a child to protection from economic exploitation and from performing any work that is likely to be hazardous, that interferes with a child's education, or that is harmful to a child's health, or physical, mental, spiritual, moral, or social development.

The report refers to other international standards regarding the use of child labor in

¹ See Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995. Department of Labor Appropriations Act, P.L. 103-333, 108 Stat. 2539 (September 30, 1994).

² See Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1994. Department of Labor Appropriations Act, P.L. 103-112, 107 Stat. 1082 (October 21, 1993).

commercial agriculture, and forced or bonded child labor. ILO Convention 138 proscribes the use of child labor on "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." The line between "commercial" agriculture and "production for local consumption" is frequently blurred, and sometimes requires difficult judgments about which side of the line certain situations fall. The practice of forced or bonded child labor constitutes *de facto* and *de jure* exploitation, as both the ILO and the United Nations have specific Conventions prohibiting all forced or bonded labor.

1. Child labor in commercial agriculture and fishing

This report reviews available information on the exploitation of child labor in commercial agricultural and fishing industries producing primarily for export. Consistent with international child labor standards, it does not focus on children working on family farms or in subsistence agriculture. Rather, the focus is on the exploitation of children in commercial enterprises. The criteria used to determine whether to include a particular situation in this report were: 1) whether children have any real opportunity to go to school; or 2) whether the work children perform is hazardous to their health or safety.

Most working children are found toiling in the fields and fisheries of the world. The use of child labor in such places remains largely accepted in many societies, and is regarded as an inevitable and often beneficial fact of life. Few researchers have visited the rural areas where most children work. The exploitation of children in commercial agriculture and fishing is thus under-researched and under-reported, and this study does not provide an exhaustive examination of the issue.

Most child laborers on plantations work as part of a family unit. Indeed, the method of payment at many commercial enterprises encourages families to bring their children to work. Few agricultural workers earn a standard or minimum daily, weekly, or monthly wage. Instead, payment usually depends either on the number of pieces harvested or processed, or the total weight of the daily or monthly crop picked. Thus, the more hands picking the crop, the larger the potential family income. It is commonly assumed by both parents and employers that children will help their parents, subject to the same workload and health and safety conditions borne by adult agricultural laborers.

Conditions in agriculture are worse when people are bonded. In many countries, entire families -- including children -- serve as bonded laborers on the farms of landowners. It is not uncommon for a child to assume the debt of a parent once the parent is unable to work. In other cases, the child works with the family in order to pay off the debt. Rarely

does a family successfully work its way out of debt.

2. Forced or bonded child labor

Despite the international prohibition of slavery in all its forms, child servitude is disturbingly commonplace. This report reviews much of the available information on the subject and provides a glimpse into the problems faced by child slaves in various parts of the world.

The most prevalent -- and the most hidden -- type of forced child labor is the selling or giving away of children to become domestic servants. The use of young children as domestic servants is a commonly accepted practice in most regions of the world. In exchange for promises of a better life, perhaps an education and a stipend, the children -- predominantly girls -- find themselves trapped in a web of grueling and demeaning work. They are often subjected to extreme physical, sexual, and mental abuse. Many times they are locked inside their places of work. While the severity of the girls' treatment may vary, their isolation and physical confinement create the conditions for abuse.

The chapter on forced or bonded child labor also describes how children are sold, lured, kidnapped, and sometimes trafficked across borders for the purposes of prostitution. The reasons children end up in the sex industry vary: parents knowingly sell children to recruiters to augment family income, recruiters make false promises, children are kidnapped, or they run away and are lured into prostitution to survive on the streets. Some children believe the sex industry to be their best option. No matter what the cause, the outcome is the same. A large and profitable industry is willing to sexually exploit children to satisfy a demand for child prostitutes. The children are generally scarred for life -- which may be short -- since occupational hazards such as AIDS and other sexually transmitted diseases, or brutal physical abuse, often kill them.

The debt-bondage of children is another form of forced labor described in the report. Bonded laborers are most commonly found in small-scale farming, domestic service, and prostitution, and a variety of industries, including the brick kiln industry, the manufacture of hand-knotted carpets, and in mining.

Typically, a parent is given a loan by an employer or an agent, for which the child's work is offered to repay the debt. Sometimes the child is taken far away from the family. Other times the child works in the same village and continues to live at home. Children also are bonded into work as part of a family unit. This is most prevalent in agriculture, where ancient feudal land-tenancy systems keep families languishing in servitude for generations.

Poor families become trapped in debt by high interest charges, low wages, and deductions for missed work, mistakes, meals and lodging. It is common for workers to request supplementary loans throughout the year in order to help support the family. The family becomes caught in a never-ending cycle of debt and servitude. For employers, the cheap labor provided by bonded laborers is often more valuable than recovery of the original debt.

3. Methodology

Many hundreds of non-governmental organizations (NGOs), trade unions, and independent experts throughout the world provided data for this report. International organizations such as the International Labor Organization (ILO) (in Geneva and field offices) and the United Nations Children's Fund (UNICEF) (both in New York and field offices) were consulted frequently. U.S. embassies and consulates collected data, provided information and suggested names of organizations or experts in their host countries to contact for further information. Department of Labor staff conducted a survey of available literature and news reports and made trips to some countries discussed in this report.³ The Department held a public hearing to gather information on the topics of this report.⁴ All foreign governments with embassies in Washington were contacted and asked to provide information or present testimony at the hearing.⁵ All trade statistics cited are taken from *Official Statistics Collected by the U.S. Department of Commerce, Bureau of the Census*.

No reliable statistics on child labor exist. Estimates of the total number of working children in the world range from 100-300 million. This report makes no attempt to assess the actual number of children who work in commercial agriculture, or who are forced or bonded into work. Where governments, non-governmental organizations (NGOs), or international organizations such as the ILO or UNICEF have estimated numbers or percentages of child laborers, a range is noted. Where no figures, or only unreliable figures, are available, the report indicates simply that there is evidence that some children work in

³ The following countries were visited: Bangladesh, India, Kenya, Malaysia, Pakistan, the Philippines, Portugal, South Africa, Tanzania, Thailand, and Zimbabwe.

⁴ International Child Labor Hearing, U.S. Department of Labor, May 5, 1995, Washington, D.C. See 60 Fed. Reg. 17089 (1995).

⁵ The following governments submitted letters or reports to the Department: Australia, Brazil, Colombia, Dominican Republic, Honduras, Kuwait, The Netherlands, Philippines, Portugal, Spain, Tunisia, United Arab Emirates, and Zimbabwe.

a particular sector.

B. Current Developments

The 1994 report, *By the Sweat and Toil of Children (Volume I): The Use of Child Labor in U.S. Manufactured and Mined Imports*, presented an overview of why and under what conditions children work. It outlined some of the debates among policy makers, academics, NGOs and other experts on the best strategies for ameliorating the dire situation facing working children and their families. A year later, little has changed for the millions of child workers and their families. But awareness of the problem seems to be growing. Experts agree on one theme that crosses ideological, cultural and political boundaries. That is the pressing need for adequate universal, compulsory, and free primary education. Both ILO Convention 138 and the Convention on the Rights of the Child stress that work should not hinder the ability of a child to receive an education.

Unfortunately, many countries with compulsory primary education laws have neither established an adequate school system nor devoted the necessary resources for enforcing mandatory attendance. There may be few schools in areas where the most children work. And where schools do exist, families cannot afford to pay for tuition, supplies or uniforms. Since many studies have pointed out that the numbers of child laborers decrease when compulsory primary education is enforced, educational enrollment remains the most important response to child exploitation.

The most important developments in the last year can be summarized as follows:

First, the media seems to be paying increased attention to child labor. This enhances the public debate, and clearly places the issue on the international policy agenda and on the agendas of individual countries and governments.

Second, greater public attention, as well as increased efforts by donor agencies and governments to contribute to workable solutions, has encouraged more NGOs to pay attention and dedicate resources to this issue. In addition, many more studies on child labor are being conducted. On a community level, more local schools have been built for working children, more awareness campaigns are being launched on the hazards of child labor, and there is more consultation and coordination among local NGOs to combat child labor. Not all of these projects have been successful. Nor has there been agreement on a single, acceptable strategy. Nonetheless, the ongoing research and efforts are leading the world to a greater understanding of the situation and more proposals for useful programs to address

the problem. According to UNICEF,

[t]here is a growing commitment and increasing action toward the goal of eliminating exploitative child labor -- although there is no question that progress remains uneven and we obviously have a very long way to go to win back childhood for the world's laboring children. It is morally unacceptable to even think of going into the 21st century with the shame of child labor still on humanity's list of unresolved social issues. Nevertheless, we at UNICEF believe there is cause for hope.⁶

Third, international organizations with expertise in children's issues and labor matters have expanded their commitment and the number of efforts/projects to eliminate the exploitation of child labor. They have forged innovative partnerships between governments, NGOs, the private sector and local communities -- all prerequisites to accomplishing the goal of eliminating child labor.

The ILO's International Programme on the Elimination of Child Labor (IPEC) is now conducting hundreds of projects throughout the world.⁷ In addition to the German government, which provided the initial financing for IPEC, the United States and numerous other nations now contribute funds to IPEC's programs worldwide.⁸

⁶ *International Child Labor Hearing*, U.S. Department of Labor (May 5, 1995)(Statement of the United Nations Children's Fund)[hereinafter Testimony of UNICEF].

⁷ At the time this report was published, the following countries had an IPEC program and signed Memorandums of Understanding (MOUs) with the ILO: Bangladesh, Brazil, India, Indonesia, Kenya, Nepal, Pakistan, Philippines, Tanzania, Thailand, and Turkey.

The following countries have requested to participate in the IPEC program, but have not yet signed MOUs: Argentina, Bolivia, Cameroon, Central America (subregional project), Colombia, Ecuador, Egypt, Paraguay, Peru, and Venezuela.

The following countries have requested to participate in the IPEC program, however, MOUs are not yet signed and donors have not been secured: Benin, Burkina Faso, Chad, Ethiopia, Guinea, Madagascar, Senegal, Uganda, and Zimbabwe.

⁸ Programs funded by the Bureau of International Affairs (ILAB), U.S. Department of Labor, in FY1995, include: 1) monitoring the removal of children from the garment industry in Bangladesh and placing them in schools; 2) supporting programs in Northern Thailand to

UNICEF is developing and implementing educational strategies to "get more children into quality primary school and to keep them learning to the end of the cycle."⁹ UNICEF and the ILO have drafted a letter of intent that will soon provide a framework for cooperation between the two agencies in the areas of child labor policy development and research as well as technical cooperation at the country level.¹⁰

Fourth, interest in child labor has spawned action by consumers and industry worldwide. Consumer groups in many countries actively disseminate information on products made by children under exploitative conditions. Many multinational corporations are developing codes of conduct to prohibit the use of child labor as defined by ILO Convention 138. Indeed, UNICEF itself has responded to this pressure, and on May 23, 1995, it adopted an institution-wide procurement policy prohibiting the purchase of any product from a supplier found to violate national and international child labor laws.

Fifth, there is a growing debate by many governments and in various international fora on the problems of and solutions to the exploitation of child labor. Of particular note, the Fifth Conference of Labour Ministers of Non-Aligned and other Developing Countries, hosted by India in January 1995, adopted a strong resolution on child labor. The resolution states in part, "We are aware and hold that the practice of exploitative child labour wherever it is practised is a moral outrage and an affront to human dignity . . . [w]e too are pro-actively committed to eliminate this practice in terms of the International Labour Conference, 1979 . . . giving immediate priority for total and de facto elimination of child labour in hazardous employments."¹¹ The Delhi resolution followed the very important statement on child labor made by Indian Prime Minister Rao in his August 15, 1994 Independence Day speech in which he announced India would initiate a major program to combat child labor. The Indian

prevent children from being lured into exploitative child labor and child prostitution; 3) financing a national statistical survey on child labor in the Philippines; and 4) sponsoring an African regional workshop to formulate measures and activities to improve working conditions of children on plantations. ILAB and the ILO are considering proposals aimed at reducing bonded child labor in India, and child labor in the footwear industry in Brazil.

⁹ Testimony of UNICEF.

¹⁰ Testimony of UNICEF.

¹¹ See *Delhi Declaration: Item 5.8 - Elimination of Child Labour*, Annexure A (Delhi: Final Documents, Fifth Conference of Labour Ministers of Non-Aligned and other Developing Countries, 1995) A-4. For the full text of the resolution, see Appendix E.

Labor Ministry, however, has yet to make public the details of the announced child labor project.

Sixth, additional governments are introducing legislation to make primary education compulsory. Others are raising the number of years children are required to attend school or the minimum age for compulsory education.

Finally, there are significant developments in some countries profiled in the Department of Labor's 1994 report, *By the Sweat and Toil of Children (Volume I)*. The report contained information on child labor in manufacturing and mining in 19 countries.¹² In some of these countries we can report some important developments.

In Bangladesh, a historic Memorandum of Understanding (MOU) on the elimination of child labor in the garment sector was signed on July 4, 1995. The tripartite Agreement was signed by UNICEF, the ILO and the Bangladesh Garment Manufacturers and Exporters Association (BGMEA). The Agreement requires that a survey of child workers in the garment sector be conducted and that all workers under age 14 will leave garment factories by a target date of October 31, 1995, and enter NGO-run school programs. The BGMEA will offer jobs to qualified older family members of under-aged workers who go to school, and efforts for after school income generation projects will also be explored. Children terminated under the Agreement will also be paid a monthly stipend to help offset the loss of their wages. The ILO will contribute funds for a verification program,¹³ which will be monitored by a steering committee of the MOU signatories.

U.S. Ambassador to Bangladesh David Merrill, who played a key role in supporting the MOU, noted at the signing ceremony that the Agreement helps Bangladesh enforce its own law, and that if implemented as intended, the MOU will not only work toward the elimination of child labor, but also contribute substantially to the welfare of those children involved and the garment industry as well. Ambassador Merrill also praised the BGMEA for its enlightened self-interest in pledging \$900,000 toward the Agreement and urged the

¹² The countries profiled in the Department's 1994 report are: Bangladesh, Brazil, China, Colombia, Côte D'Ivoire, Egypt, Guatemala, India, Indonesia, Lesotho, Mexico, Morocco, Nepal, Pakistan, Philippines, Portugal, Tanzania, Thailand, and Zimbabwe.

¹³ The United States Government will provide a portion of the funds through its contribution to the ILO's IPEC program.

BGMEA to implement the Agreement in good faith.¹⁴

In India, there is now a labelling program in operation to inform consumers that a carpet is not made by children. Tens of thousands of rugs bearing the RUGMARK label -- a logo of a smiling child superimposed over the picture of a carpet -- have been shipped to Germany. The RUGMARK Foundation, supported by UNICEF and well-known local NGOS, grants a license to use its logo to carpet exporters and manufacturers who: (i) legally commit themselves not to employ children under 14; (ii) pay their workers at least the official minimum wage; (iii) make available lists of loom units and sources from which they procure carpets; and (iv) agree to unannounced inspections by RUGMARK inspectors. In addition, importers must pay a one percent surcharge on the f.o.b. price of the carpets. The money will be used by UNICEF to fund educational and vocational programs for the displaced child carpet workers.

In June 1995, the Indian government announced its intention to sponsor a new initiative to label carpets made without child labor. The program, called "kaleen," would be controlled by the Carpet Export Promotion Council, a semi-autonomous body under the Indian Textile Ministry. Few details are known about the initiative to date.

Also in June 1995, the Indian Commission on Labour Standards and International Trade issued a voluminous report entitled, *Child Labour in India: A Perspective*. The report describes the factual situation of the exploitation of child labor in India, together with a discussion of policy perspectives. The report makes a series of recommendations to the Government for the progressive elimination of child labor in India.

Of concern in India, however, was the June 1 arrest of prominent anti-child labor activist, Kailash Satyarthi, Chairman of the South Asian Coalition on Child Servitude. The arrest followed charges made by a local carpet manufacturer that Satyarthi's outspokenness about child bonded workers in the carpet industry resulted in the cancellation of orders. Satyarthi was detained for two days. A hearing on the case was originally scheduled for July 5, 1995 but was postponed. No new trial date has been set.

In Pakistan, Iqbal Masih, a liberated bonded child carpet weaver, was murdered in April 1995. Iqbal was known throughout the world and in certain Pakistani communities as a crusader against bonded child labor. The circumstances of his murder remain unclear. One consequence of his murder was to heighten worldwide awareness of child labor. Another

¹⁴ See American Embassy-Dhaka, unclassified telegram no. 3197, July 5, 1995.

was the immediate cancellation of orders for Pakistani carpets from many importers. The Pakistani Carpet Manufacturers and Exporters Association has called for discussions to establish a labelling system based upon the RUGMARK Foundation initiative. The Government of Pakistan and local NGOs have also expressed interest in such a program.

Of concern in Pakistan, however, is the recent arrest and detention of persons associated with the Masih case: members of the Bonded Labor Liberation Front (BLLF), family members of Iqbal Masih, and a journalist covering the Masih murder. Additionally, in July a Norwegian trade union delegation visiting a soccer ball factory in Sialkot was attacked as it observed children between the ages of 5 and 10 making soccer balls. The delegation, accompanied by a team from the Norwegian Broadcasting company and a representative of the BLLF, was attacked by a few armed men who beat the cameraman and the BLLF representative. A camera and film were confiscated. The camera was eventually returned, but without the film. It is alarming that anti-child labor activists in Pakistan are forced to operate under increasingly dangerous conditions.

In Nepal, constant media attention (particularly in Germany) has caused a significant drop in orders for Nepali rugs resulting in a decrease in production. Negotiations are underway to establish a RUGMARK or similar program. The Government of Nepal has recently made strong public statements decrying the exploitation of child labor and announcing its intention to strictly enforce the prohibition of child labor in the carpet industry.

In Brazil, President Fernando Henrique Cardoso recently acknowledged that slave labor and child labor has not ended in Brazil, noting that there are still Brazilians who work without freedom. In a June 27, 1995 radio address to the nation President Cardoso announced the creation of an executive task force to crack down on forced labor.¹⁵ He described the new task force as an "action-oriented body," and instructed it to formulate "truly stiff punishments to those people who are making Brazilians work as slaves . . ."¹⁶ The directive also calls upon the Industry and Commerce Ministry to take specific action against the use of child labor in the shoe industry.

¹⁵ See FBIS report dated June 27, 1995 containing translated text [on file] [hereinafter FBIS report]. The task force will consist of five ministries: Labor, Justice, Agriculture, Industry and Commerce, and Environment, Water Resources and Legal Amazon.

¹⁶ FBIS report.

In Colombia, the government established a committee for the eradication of child labor and the protection of minor workers on May 30, 1995. At the same time, an awareness campaign was launched to "bring the plight of child laborers to the Colombian public's attention."¹⁷ Minister of Labor and Social Security Maria Sol Navia stated that the long range goal of the committee was the eradication of child labor. In her address at the installation ceremony of the committee, Colombia's first lady, Jacquin Strouss de Samper, noted that there are approximately 1.8 million children in Colombia's workforce.¹⁸

¹⁷ American Embassy-Bogota, unclassified telegram no. 7553, June 1, 1995 [hereinafter Bogota 7553].

¹⁸ Bogota 7553.

III. Child Labor In Commercial Agriculture

A. Introduction

More of the world's working children are employed in agriculture than in any other sector. According to the International Labor Organization (ILO), "it is likely that a majority of all work done by children is in agriculture."¹ The purpose of this chapter is to survey the use of children in commercial agricultural and fishing activities that export to the United States.²

The subject of child labor in agriculture has undergone little systematic analysis. Available information is often vague and incomplete. This chapter seeks to take a first step in understanding the use of children in commercial agriculture by surveying available government documents, reports, articles, accounts, studies, and other data in order to sketch a broad overview of the countries and industries in which children work, and the terms and conditions of their employment.

The first section of this chapter presents a summary of why children work, the jobs they perform, the terms under which they are hired, the conditions under which they work, and the relevant international law governing child labor in the agricultural sector. The second part of the chapter surveys the use of child labor in specific industries that export products to the United States.

1. Overview and Scope

Most children in commercial agriculture work on a seasonal basis, often full-time as part of a family unit³ during the harvest and seeding seasons, but irregularly or on a part-time

¹ *International Child Labor Hearing*, U.S. Department of Labor (May 5, 1995) (Statement of the International Labor Organization) [hereinafter Testimony of the ILO].

² See Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Bill, 1995, S. Rpt. 103-553, 103d Cong., 2d Session (1994).

³ The term "family unit" does not mean that children are working on family farms. It describes situations of families working together on commercial agricultural enterprises.

basis during the remainder of the year. Many of these children attend school when they are not working. It is not always known whether children regularly attend school in the non-harvest or seeding months.

Children working in commercial agriculture and fishing face a wide range of health and safety risks. Often forced to work in harsh conditions without protective clothing or safety equipment, many children are injured in the course of their work. Children also work extremely long hours without rest; fatigue makes them more susceptible to accidents. Dangerous working conditions, excessive physical strain, malnutrition, and regular exposure to disease-carrying animals and toxic chemicals lead to lung, skin, and respiratory diseases, back injuries, and permanent physical handicaps and deformities. Few children receive the medical care required to remedy these ailments.

Because many of these children work on an occasional basis, and because official statistics either do not count, or are unable to accurately count, seasonal workers, estimates of the total number of children working in commercial agriculture are difficult to ascertain. The use of child labor in agriculture is thus, to a large degree, invisible -- uncounted, often undocumented, and little understood.

a. International Laws and Definitions

International and some national laws sharply proscribe the use of children by commercial agricultural enterprises. In addition, most countries either promote or make compulsory primary education. Unfortunately, many governments do not enforce primary education laws or commit adequate resources for all children to attend school. This is particularly true in rural areas, where access to education is often limited. The important linkage between education and increased opportunities for children is stated succinctly by the ILO: "Enforcement of school attendance, particularly for girls, would go a long way towards eliminating child labour."⁴

For purposes of this study, the definition of child labor used is that of ILO Convention No. 138 on the Minimum Age for Admission to Employment and its accompanying Recommendation No. 146. Convention 138 establishes a basic minimum age of 15, but permits countries "whose economy and educational facilities are insufficiently developed"

⁴ International Labor Organization, *Recent Developments in the Plantations Sector* (Geneva: International Labor Organization, 1994) 8 [hereinafter *Recent Developments in the Plantation Sector*].

to establish a minimum age of 14. Article 5, paragraph 3, specifically applies the Convention to "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."⁵

Recommendation No. 146 states:

*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.*⁶

In accordance with the ILO approach, this study does not include children working on family farms -- land owned and cultivated by members of nuclear or extended families. Although the products grown on family farms are sometimes purchased by buyers who in turn sell them in international markets, their primary purpose is to support the families that operate them. Nor does the study include conditions of small cooperative farming arrangements that produce goods solely for local consumption, or other small-scale entities. Also excluded from this report are those situations in which (i) working children are able to attend school on a regular basis, and (ii) there is no evidence of jeopardy to the health and safety of the children who may be working outside of school hours.

Recognizing the importance of education and training as a means of alleviating poverty and raising economic standards of children, the thrust of the ILO standards is to permit children to work only in those circumstances where the nature and timing of their work does not interfere with their ability to gain a basic education. ILO Convention 138 directly ties a country's establishment of minimum age for work to the completion of compulsory schooling. Thus, Article 2 of Convention 138 requires a country's minimum age to be "not less than the age of completion of compulsory schooling." Article 7 of the Convention permits children 13 to 15 years of age to perform "light work" so long as such

⁵ Convention No. 138, in *International Labour Conventions and Recommendations, 1919-1991*, vol. II (Geneva: International Labor Organization, 1992) 1032 [hereinafter ILO Convention No. 138].

⁶ Recommendation No. 146, in *International Labour Conventions and Recommendations, 1919-1991*, vol. II (Geneva: International Labor Organization, 1992) 1036.

work does not:

*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.*⁷

This study also concentrates on those sectors and countries where children are subjected in their work to undue health or safety hazards. This also parallels the ILO approach. Article 3, paragraph 1 sets a minimum age of 18 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 . . .*⁸

The Convention requires that for those workers above the age of 16 but below the age of 18, national laws or regulations must ensure that the "health, safety and morals" of such young workers are "fully protected" and that they "have received adequate instruction or vocational training in the relevant branch of activity."⁹

The most economically significant form of commercial agriculture, in terms of size, revenues, and share of export markets, is the plantation. The definition of a plantation in this study is that of the ILO Committee on the Work of Plantations:¹⁰

. . . any agricultural undertaking employing hired workers which is situated in the tropical or subtropical region and which is concerned with the cultivation and production for commercial purposes of one or more of . . .

⁷ ILO Convention No. 138 at 1033.

⁸ ILO Convention No. 138 at 1031.

⁹ ILO Convention No. 138 at 1031.

¹⁰ Other terms are often used synonymously for plantation. The term "estate" is technically the same as plantation, though the term *plantation* often is used informally to describe farms where the product is picked from trees, while the term *estate* is used to describe farms where the product is picked from the ground. In India, tea plantations are often referred to as "tea gardens." In this chapter the term plantation refers to all these establishments.

*coffee, tea, sugar cane, rubber, bananas, cocoa, coconuts, groundnuts, cotton, tobacco, fibers -- sisal, jute and hemp -- citrus, palm oil, cinchona, pineapple and rice.*¹¹

Plantations employ approximately 20 million persons, or about 2 percent of the persons working in the agricultural sector in developing countries.¹² According to the ILO, "(s)everal hundreds of thousands of children are reported to be working on plantations in various producer countries; they account for an estimated 7 to 12 percent of the total plantation wage labour force."¹³

2. Why Children Work: Explanations for Use of Child Labor in Agriculture

There are many explanations for the use of child labor in agriculture. The use of child labor is usually the result of a need for intensive labor coupled with a readily available supply of labor that is cheap and easily controlled. Employers hire children because they are available in large numbers, and because, in the view of some employers, child workers are preferable to adults. While most agree that children should grow up in an environment that provides the best possible conditions of physical and mental growth, many factors compel children to enter the workforce. As a result, a large supply of children is often available to meet the demand.

a. Demand for Child Labor

Even in countries with high unemployment rates, children can be found working full time on farms and plantations while rural adult workers are unemployed. There are four principal reasons for this: children are plentiful in numbers in rural areas; they often already live on plantations or other farms; their labor can be had for a fraction of what is paid to adult workers; and they are considered to be more docile and more pliant than adult workers.

A study by an Indian Government Commission concluded that:

On the demand side, there are certain sectors that have tended to rely heavily

¹¹ *Recent Developments in the Plantation Sector* at 2.

¹² *Recent Developments in the Plantation Sector* at 8.

¹³ *Recent Developments in the Plantation Sector* at 8.

*on child labour, because of the pliability of children or low wage. Agriculture is one such sector. Plantation industry thrives almost entirely on the advantage of child labour. Children join the labour force alongside the parents either for no wage or for a negligible income.*¹⁴

b. Supply of Child Labor

Studies of the causes of child labor in agriculture have found several, often overlapping reasons, why there is a supply of children for work on plantations and farms. The most significant causes are a real or perceived need on the part of families for income; a dearth of educational opportunities; an inability to pay for education or a belief that education is of little value; or situations of forced or bonded labor.¹⁵ Children are also found working on plantations after dropping out of school. They may be recruited to perform tasks their parents prefer not to do, or they can be found tending to younger siblings living on plantations while the parents work. Finally, some children work on plantations to earn their own income. In some cases mothers take their children to work with them in the fields because they have neither a safe place to leave them nor someone to care for them.

i. Poverty

Poverty is the most often cited reason for the use of child labor in agriculture and fishing. Children most commonly work in poor rural agricultural regions in which families believe the employment of their children will increase total family income. Systems of remuneration based on weight/piece provide an incentive to use children to maximize earnings. Payment schemes that require a minimum amount of a crop to be collected in order for any wage to be paid also serve as an incentive for parents to employ their children. The contribution of a child's earnings to general family income has not been studied in detail.¹⁶

¹⁴ Indian Commission on Labour Standards and International Trade, *Child Labour in India: A Perspective* (New Delhi: June 10, 1995) 17-18 [hereinafter Indian Commission].

¹⁵ This chapter includes only children in conditions of forced and bonded labor in agricultural or fishing industries that export to the United States. Part IV of this study, *Forced and Bonded Child Labor*, discusses situations of forced or bonded labor on small-scale farms not producing for export to the United States.

¹⁶ Some studies that have examined the relationship in specific agricultural or fishing industries are: the fishing industry in Thailand, Kerry Richter and Orathai Ard-am, *Child Labor in Thailand's Fishing Industry* (Salaya, Nakhon Pathom, Thailand: Institute for

In situations where parents work for long hours in the fields, children are often required to perform domestic chores in their place.

While the employment of children may supplement family income in some instances, it may also contribute to keeping the children in poverty. A study of child labor on palm oil and rubber plantations in Malaysia concluded that children are "doubly pushed into menial labour: poor households need additional income from the extra working members, while the lack of affordable opportunities for further education and skill training means limited prospects for upward or outward mobility."¹⁷

ii. Educational Factors

A major factor contributing to the use of child labor is the lack of educational opportunities available to children in rural areas. Many plantations do not have schools on the premises. The long distances that must be travelled, often on foot, to attend the nearest school commonly preclude attendance. Even when schools are located nearby, children of poor families are frequently unable to pay school fees or purchase required school uniforms, books, and other school materials.

Parents' negative attitudes toward the usefulness of schooling also prevents the placement of children in schools. In many rural areas where farm work is the only job available, many parents perceive little utility in sending their children to school when they could be more useful to the family by working. Furthermore, many parents believe that children will receive more useful training by working on farms than they would in the classroom -- even if the work they perform actually provides little actual training in agricultural techniques.

Population and Social Research, Mahidol University, 1995); the tea industry in India, Vasanthi Raman, "Child Labour in Tea Plantations of North-East India -- An Extract," *in My Name is Today: Children in News*, vol. 2, no. 1 (January-March 1994) 14-18; and rubber and palm oil plantations in Malaysia, Jomo K.S., Josie Aini, P. Ramasamy and Sumathy Suppiah, "Early Labour: Children at Work on Malaysian Plantations," in Jomo K.S., ed., *Child Labour in Malaysia* (Kuala Lumpur: Forum, 1992) 144-171.

¹⁷ Jomo K.S., Josie Aini, P. Ramasamy and Sumathy Suppiah, "Early Labour: Children at Work on Malaysian Plantations," in Jomo K.S., ed., *Child Labour in Malaysia* (Kuala Lumpur: Forum, 1992) 152.

iii. Parent's Choice/Children's Choice

While most children work as part of a family unit, children may also work so that "(p)arents can reduce their own work burdens through the use of their children's work."¹⁸

In other instances older children may opt to become employed against their parent's wishes, "rather than endure the `eternal apprenticeship' of long hours without remuneration under the control of parents."¹⁹ The lure of an independent salary also may cause older children to seek paying jobs rather than to work without compensation on their family farms.

iv. Societal Attitudes

Many children work because child labor has become an accepted norm within the social structure. Children growing up on farms are inculcated into a lifestyle centered around work at an early age and simply know no other way of life, particularly if schooling is not a possibility. In many agrarian societies children as young as 5 perform small tasks on the farm.

In some instances the use of child labor supports the reigning social and family value system; child labor is viewed as beneficial to the child, the family, and the society in general. In Indonesia, for example, the "Pancasila" ideology states a child's foremost duty is to help their parent.²⁰ An ILO study of child labor in Indonesia notes that "cultural values in Indonesia accept and even encourage child employment as an educational process" that brings understanding of work, personal responsibility, self-discipline, and job satisfaction.²¹ Similar attitudes are common in many countries throughout the world.

Finally, society in general contributes to child labor through omission, indifference, a lack of awareness, or the acceptance of child labor as a natural and customary way of life.

¹⁸ Alec Fyfe, *Child Labour*, (Cambridge: Polity Press, 1989) 73 [hereinafter Fyfe].

¹⁹ Fyfe at 72-73.

²⁰ Indonesian Documentation and Information Centre, *Child Labour in U.S.-Exporting Industries in Indonesia* (Leiden: Indonesian Documentation and Information Centre, 1994) 1.

²¹ *Child Labour in Indonesia* (Geneva: International Labor Organization, 1993) 6 [hereinafter *Child Labour in Indonesia*].

v. Minority Status

In many cases, especially high concentrations of working children come from either specific castes, ethnic or religious minorities, or domestic and foreign migrant populations. In India, the great majority of working children are from lower caste families. In Malaysia, most of the children working on palm-oil and rubber plantations are Tamils, who descend from low-caste workers originally imported from India.²² In Argentina, many of the working children are Paraguayan and Bolivian; in Thailand's fishing industry many are Burmese; in Costa Rica, most are thought to be from Nicaragua. Children of native or tribal people also may be employed, such as the Burmese Karen in Thailand's fishing industry, or native Indians who pick sugar cane in the state of Mato Grosso do Sul in Brazil. In Pakistan many of the working children may be minority Christians.

vi. Government Policy

Government policies -- or lack thereof -- also contribute to the use of child labor in agriculture. In many countries, a lack of surveillance, enforcement, and intervention on the part of governments allows child labor to thrive. According to the ILO:

*. . . almost nowhere do children working in agriculture receive the priority attention their vulnerability merits; to the contrary, they are especially underserved and underprotected. Labour inspection in rural areas is often insufficient, and even under the best of conditions it may cover only the largest commercial enterprises, which is not where many children work. Even the structures by which child workers in agriculture might be reached are thin or leaking; there is often a scarcity of government or NGO organizations capable of extending services and protection to rural working children, even with outside financial support.*²³

Even when violators are caught and prosecuted, penalties are often too small to induce employers to change their practices.

In many countries, governmental policies simply ignore the plight of children. Mandatory education laws, if they exist, are often disregarded in agricultural regions, and

²² *The Economist*, January 6, 1990.

²³ Testimony of the International Labor Organization.

in many rural areas schools are simply too distant to be accessible. The ILO has stated, "Primary education facilities are available on most plantations, but are generally found insufficient to enable all children to attend school regularly and complete their primary education."²⁴

3. Working Conditions: Health and Safety Issues

Children working in agriculture are exposed to many hazards that imperil their safety and health. The ILO states that children working in agriculture "are at risk for two reasons other than being child workers:"

*First, they are involved in one of the world's most dangerous sectors; although data are poor, agriculture is known to have especially high occupational disease and accident rates for adults. Second, they live in rural areas, which are generally poorer than cities; rural children in developing countries tend to have lower weight and life expectancy at birth, higher mortality and morbidity rates, greater incidence of malnutrition, and lower school enrollment and completion rates than do urban children. This combination of risks makes rural working children especially vulnerable.*²⁵

Even under the best conditions children in agriculture commonly suffer accidents, injuries and illnesses. As the ILO notes, "children suffer from long and arduous working hours, little health and safety protection and services, inadequate diets, rest and leisure, and are further denied education even where primary school attendance is possible."²⁶

Working children often work with unsafe farm machinery and tools that they are not always able to operate safely. For example, some children who cut sugar cane use heavy machetes that they cannot wield properly and suffer various injuries as a result. When children perform chores that are simply too strenuous for them, such as carrying heavy or oversized loads of picked coffee, tea, tobacco, and other crops, they suffer from problems ranging from back injuries to permanent disabilities or deformities.

Children working on tropical plantations are regularly threatened by constant

²⁴ *Recent Developments in the Plantations Sector* at 8.

²⁵ Testimony of the International Labor Organization.

²⁶ *Recent Developments in the Plantations Sector* at 50.

exposure to poisonous or disease-carrying insects and reptiles. They are particularly susceptible to endemic and parasitic diseases, dermatosis, and respiratory tract diseases. Fatigue is an ever present problem.²⁷

Hygienic conditions on plantations are often substandard. Drinking water is often unsafe, sanitary facilities are frequently unclean, and medical facilities found on plantations, if they exist at all, are often inadequate to treat the illnesses and injuries suffered by children.

A particularly dangerous threat to children working on plantations is regular exposure to hazardous substances used in agriculture, such as toxic chemical fertilizers and pesticides. The ILO, noting that the great majority of workers in the agricultural sector live in developing countries, states:

*The bulk of chemical products manufactured in these countries or imported by them is used in agriculture. Pesticides, chiefly insecticides, are among the most commonly used of agrochemicals. All too often they are applied without adequate protective equipment or other precautionary measures. Workers in these countries are too often untrained in the proper use of pesticides. Often they cannot read the languages in which instructions are written. As a result of these and other factors, pesticide poisoning is widespread.*²⁸

While some pesticides, such as DDT and other organochlorine compounds, have been banned in industrial countries, they are regularly used in developing countries.²⁹ Although there are no doubt significant benefits from the use of agrochemicals, the effects of the use of these chemicals on child workers in many countries may be more dangerous as a result of climatic conditions, precarious working conditions, inadequate or even non-existent medical facilities, ineffective or understaffed regulatory bodies, and general ignorance of the hazards involved in handling pesticides.³⁰ An ILO study of the use of agrochemicals states

²⁷ See, for example, D.C. Pitt, "Child Labour and Health," in P.M. Shah, ed., *Child Labour: A Threat to Health and Development* (Geneva: Defence for Children International, 1985) 23-36.

²⁸ Testimony of the International Labor Organization.

²⁹ *World Labour Report 1994* (Geneva: International Labor Organization, 1994) 82 [hereinafter *World Labour Report*].

³⁰ *World Labour Report* at 82-83.

that "(i)ndustrialized countries use 80 percent of the world's agrochemicals but probably suffer only 1 per cent or less of all deaths due to pesticide poisoning; developing countries, on the other hand, suffer 99 per cent of all such deaths while using only 20 per cent of the world's agrochemicals."³¹

The effects of these safety and health hazards may be far more severe to children than to adults. A recent study on children in hazardous work states:

*A growing body of research indicates that, because of anatomical differences between children and adults, child workers are considerably more vulnerable to workplace health hazards. Age seems to be an important factor in the effect of toxic chemicals, and children exposed to them early tend to become ill or disabled much more quickly than do adults with similar exposure. Children are more susceptible to thermal stress and environmental temperature changes, and are more sensitive to ionizing radiation. They are also more vulnerable to carcinogens, and, if exposed to them, the probability of their developing cancer is greater than that of adults having equal exposure. Furthermore, children who work are more likely than adults to suffer occupational injuries owing to inattention, fatigue, poor judgment, insufficient knowledge of work processes, and the fact that equipment, machinery and tools used are designed for adults.*³²

4. Terms of Employment

Children working in the commercial agricultural sector are employed under many different terms and circumstances.

In some instances, children are hired as wage laborers and are employed on a full time basis. While children hired in this manner usually perform the same work as adult workers, only in rare instances do they receive the same wages as their adult counterparts; more commonly the wages they are paid are one-half to one-third below those paid to adults.³³

³¹ *World Labour Report* at 82.

³² A. Bequele and W.E. Myers, *First things first in child labour: Eliminating work detrimental to children* (Geneva: UNICEF and the International Labor Organization, 1995) 9.

³³ *Recent Developments in the Plantations Sector* at 50.

The majority of children working on commercial farms do so as part of a family unit. The main incentive for parents to use children is the use of compensation systems that pay workers by the weight or quantity of the product collected. By using their children, parents are able to increase the amount collected and thereby increase earnings. Sometimes, minimum amounts of a product must be collected in order for any compensation to be paid, in which case the contributions of children can be critical. While children's earnings can in some instances significantly enhance family income, more frequently their contribution is a small percentage of the family's earnings.

Even when they are not engaged in full-time farm work, children may also support the economic life of the plantation by taking care of younger children, performing domestic tasks and chores, and taking care of their family's animals and vegetable plots. By doing these jobs, farm and plantation operators are relieved of having to provide child-care facilities, and adult workers are freed up to devote more of their time to farm work.

There has been a dramatic rise throughout the world in the use of contract labor, whereby plantation owners and managers contract labor for a limited period of time or for a particular job. Plantations owners tend to benefit from the use of contract labor, as it relieves them of the burden of recruiting, overseeing, and paying the workers. But the system has many negative consequences for children. Their families move frequently, often to several locations in the course of a year. On the job, they often receive neither compensation, medical care, overtime pay, rest breaks, rest days, nor education. Because contract workers often do not live on plantations, working children must often spend many hours each day commuting to work along with their parents.

5. Education and Child Labor in Commercial Agriculture

It is difficult to generalize about the amount and quality of education received by children working in the agricultural sector. The quality of schools can vary dramatically, even in a given area. Differing populations on a particular farm or plantation may follow differing educational paths. The location or size of a farm or plantation rarely serves as a clue to the quality or amount of education children receive. Few meaningful statistics are kept on school attendance in rural areas, and even those that exist provide little insight into the quality of the education children receive.

Still, some general tendencies appear evident. For the most part, children living in more geographically remote regions usually have lesser opportunities to attend schools, and the quality of the education usually is inferior to that received by urban counterparts. While many rural children attend primary (elementary) schools, most drop out either during or upon

completion of primary school. Teachers are often scarce in rural areas. Many governments take few steps to enforce their own mandatory education laws outside of more heavily populated urban areas.

Many large plantations and farms operate their own schools. The quality of these varies greatly: some meet or exceed government educational standards, while others offer minimal educations and structure school schedules to maximize the amount of time that students can devote to working in the fields. Schools on commercial farms in Zimbabwe, for example, have shorter class hours than other schools so children can work, and at times when labor is needed owners will pay children to work in lieu of remaining in the classroom.³⁴

Where schools do not exist on the premises, children must often walk long distances to attend schools, if any are accessible at all. Many rural parents often believe that their education is not useful and seek to curtail their children's schooling at an early age.

Children in what appear to be very similar circumstances may encounter very differing educational opportunities. Children working on tea plantations in hilly areas of West Bengal, in India, tend to attend either government schools or schools run by missionaries. Children on tea plantations in the plains have fewer available schools and tend to drop out by the third grade.³⁵

Even on a given plantation, different groups of children may be offered differing educational opportunities. In Negros, in the Philippines, the children of skilled plantation workers attend school full time and work in their free time; the children of unskilled plantation workers and the children of migrants working on the same plantation do not receive any schooling.³⁶

Working often has a strong negative impact on education. Children who attend school

³⁴ American Embassy-Harare, unclassified telegram no. 4141, April 13, 1995.

³⁵ Myron Weiner, *The Child and the State in India* (Princeton: Princeton University Press, 1991) 52 [hereinafter Weiner].

³⁶ Maria Anna Mapa, Ramon Lachica, May Angeline Daanoy-Satake, and Violeta Lopez-Gonzaga, *Tender Hands that Toil: A Study of the Phenomenon of Child Labor in Northern Negros* (Bacolod City: University of St. La Salle, 1990) 11-12 [hereinafter Mapa, Lachica, Daanoy-Satake, and Lopez-Gonzaga].

and work are often fatigued and unable to concentrate in the classroom or do homework.

Almost no research has been done on the education of the children of migrant agricultural workers. Because they regularly move from one plantation or region to another, schooling opportunities may change with each move. For the most part, they attend school in their home village, but this is often disrupted by constant moves. Migrant children usually work with their parents as part of a family unit, and rarely attend school on the farms or plantations where their parents work. Few governments have addressed the problem.

B. Regional and Industry Profiles

1. Africa

Harsh geography, in the form of rain forest and desert, makes the establishment of commercial farming virtually impossible in much of Africa. War has shut down other once-large exporters, such as Liberia's rubber plantations and the coffee plantations of Rwanda. In much of the rest of the continent, agriculture is undertaken on small communal or family farms that grow crops for home use or local consumption.

The plantations in Africa that produce for export are situated mainly in two geographical regions: the coastal countries of West Africa and the countries of the East African plateau, running from the highlands of Ethiopia to South Africa. The major products grown on these plantations are coffee, cocoa, cotton, rice, rubber, sisal, tea, and vanilla. Fruits and vegetables are commercially produced in South Africa.

Working conditions for children on African farms are extremely harsh. As one author notes, "(c)limatic conditions quickly induce fatigue; there is a constant danger from insects, reptiles and other animals; the ground is hard and tools primitive; distances to be travelled are sometimes very great; working hours are long; and the overall picture can be even worse if the children themselves are not in good health."³⁷

Plantations and farms in Africa often hire children directly as contract workers. In Tanzania, for example, it has been reported that primary school age children, some as young as six years old, have been recruited for plantation work by owners of commercial farms, who send trucks to collect workers between November and May, the peak agricultural period.³⁸ A 1992 account from the Northern Transvaal, in South Africa, tells "of some children trucked in from outside farms being selected by lot for rape by adult workers on the

³⁷ Michel Bonnet, "Child Labour in Africa," *International Labour Review*, vol. 132, no. 3 (1993) 382.

³⁸ *Child Labour in Tanzania* at 13; interview by Department of Labor Official with William Malya, National Program Coordinator, International Program for the Elimination of Child Labor, Dar Es Salaam, June 20, 1995.

host farm.³⁹ Farmers in South Africa also reportedly contract with tribal chiefs in the Transkei region to hire children. All of the payments go to the chiefs.⁴⁰

In Zimbabwe, many large plantations, including some owned by the government, require children to work during the harvest season in order to remain in school. In November 1990, students living on farms in Chipinge and Chisumbange were reportedly forced by the government to pick cotton during the harvesting season. The students claimed they were told that a refusal to work would result in their not being allowed to attend classes.⁴¹ In June 1995 children were photographed working in cotton fields of a government-owned farm in Bulilimamange District. Despite protests by parents, the farm management insisted that children work on weekends in order to finance the school. Those children who did not show up for work on the weekend were required to work during school hours.⁴²

The use of child labor appears to be significant in South Africa, though research on the subject has been limited. Children are reported to work on farms that produce fruit and vegetables, grapes for wine, maize, sugar cane, and tobacco.⁴³ The ILO estimated in 1987 that more than 60,000 black children between 8 and 14 years of age were employed as

³⁹ Jackie Loffel, *Child Labour: Economic Exploitation as a Form of Child Abuse in South Africa* (Johannesburg: Network Against Child Labour/Johannesburg Child Welfare Society, 1993) at 3 [hereinafter Loffel], *citing* Network Against Child Labour, *Minutes and Records, 1991-1993*.

⁴⁰ Interview by Department of Labor official with Jackie Loffell and Peter Mugabane of the Network Against Child Labour, Johannesburg, June 6, 1994.

⁴¹ *Toward Action Against Child Labour in Zimbabwe* (Geneva: International Labor Organization, 1992) 46-47 [hereinafter *Toward Action Against Child Labour in Zimbabwe*].

⁴² *The Chronicle* [Harare], June 11, 1995, p. 1.

⁴³ Loffell at 2, *citing* *Child Labour in South Africa* (London, 1983); Interview by Department of Labor official with Jackie Loffell and Peter Mugabane of the Network Against Child Labour, June 6, 1994; with Professor Henry Chipeya, University of Capetown, Capetown, June 9, 1994; and with Professor Sarah Christie, Professor Evance Kalula, and Davey Bosch, Center for Rural Legal Studies, Capetown, June 9, 1994.

laborers on South African farms.⁴⁴ Prior to 1994, government labor inspectors were not permitted to enter private commercial farms and were thus prevented from enforcing labor laws or assessing conditions.⁴⁵

a. Coffee

In Kenya, children pick coffee berries during the harvest season. Younger children work alongside their parents -- usually their mothers -- while older children often work independently.⁴⁶ By one estimate, children comprise 58 percent of the coffee plantation work force during peak seasons and 18 percent of the work force during the rest of the year.⁴⁷

Because workers are paid according to quantity, children are called upon to assist their mothers to pick coffee and fill the coffee bags. Even with such assistance, earnings are barely sufficient to buy food. Once the children begin working they rarely return to school. In addition, many boys migrate to the cities by the time they reach the ages of 11-13.⁴⁸

While some child workers live on the plantations, others either walk to work or are picked up by trucks between 5:30-6:30 a.m. and return at 5:00-7:00 p.m.⁴⁹ Protective clothing and safety devices are not regularly issued; children who climb taller coffee trees to collect beans sometimes fall.⁵⁰ Children are generally malnourished and suffer from many

⁴⁴ Loffell at 1, *citing* NCRC/UNICEF, *Children and Women in South Africa: A Situation Analysis* (Johannesburg, 1993).

⁴⁵ Interview by Department of Labor official with Professor Henry Chipeya, University of Capetown, Capetown, June 9, 1994.

⁴⁶ Federation of Kenya Employers, *Report on a Survey on Child Labour in Commercial Agricultural Plantations in Kenya* (Nairobi: Federation of Kenya Employers, 1994) 8 [hereinafter Federation of Kenya Employers].

⁴⁷ Federation of Kenya Employers at 3.

⁴⁸ International Labor Organization, "Des Plantations de Cafe aux rues de Nairobi," *Travail*, No. 9 (September-October, 1994) 19.

⁴⁹ Federation of Kenya Employers at 6.

⁵⁰ Federation of Kenya Employers at 5.

health problems.⁵¹

In 1994, U.S. imports of Kenyan coffee totalled \$15 million.

In Madagascar and Uganda, children work on a seasonal basis, usually assisting in picking and sorting coffee beans during the harvest season.⁵² In Côte d'Ivoire, children work on medium-sized coffee plantations. They sort through the beans and select those that are useable, strip coffee beans from the trees, and pick up beans that fall off the ground cloth used to collect them.⁵³ More research is need to determine the conditions of work, ages of children, and primary school enrollment.

In 1994 the United States imported \$5 million of coffee from Madagascar, \$34 million from Uganda, and \$8 million from Côte d'Ivoire.

b. Cotton

In Zimbabwe, children are employed to pick cotton for six weeks during the harvest season. Because wages paid are extremely low, even many unemployed persons elect not to seek employment, leaving either migrant families or children to take the jobs.⁵⁴

Heads of households are hired or contracted by plantation owners to pick, weed, and harvest cotton. They usually bring their wives and children along with them. Because seasonal and migrant workers are paid by the task or by the piece, families have a strong incentive to use their children to boost production.

⁵¹ Philista P.M. Onyango, "Child Labour Policies and Programmes in Kenya," in Assefa Bequele and Jo Boyden, eds., *Combating Child Labour* (Geneva: International Labor Organization, 1988) 162 [hereinafter Onyango].

⁵² American Embassy-Antananarivo, unclassified telegram no. 2383, April 19, 1995; American Embassy-Kampala, unclassified telegram no. 2463, April 13, 1995. Uganda's National Organization of Trade Unions (NOTU) claims that children were picking coffee during the 1994 coffee boom; the Federation of Uganda Employers claims that most of the children were 14-18 years of age. American Embassy-Kampala, unclassified telegram no. 2643, April 13, 1995.

⁵³ American Embassy-Abidjan, unclassified telegram no. 4697, May 16, 1995.

⁵⁴ *Toward Action Against Child Labour in Zimbabwe* at 46.

Some commercial and small-scale farms have resident workers. Farm owners usually provide workers with housing, schooling, and banking services. Many workers spend their entire lives on one plantation. While women traditionally picked the cotton, in recent years children have increasingly performed this task.

In 1994, the United States imported \$5 million of woven cotton fabric from Zimbabwe.

c. Fruits and Vegetables

South Africa is the largest producer of fruits and vegetables in Africa, and child labor is frequently used on South African farms. Child labor can be found in the Western Cape, around Kalitsdorp; in the agriculturally rich areas near Stellenbosch and Paarl; and in the Orange Free State. Children are also reported to farm asparagus on the Lesotho border.⁵⁵

Children are frequently used on a short-term basis in the harvesting season. A team leader will hire the children, who are usually 10 years old and above, thus enabling the farm owners themselves to deny responsibility for knowing the ages of the children or the terms under which they were hired.⁵⁶

Also in South Africa, there are reports of Mozambican refugee children who are recruited by local farmers, put to work and then reported to the police for deportation as illegal aliens when payment for their labor becomes due.⁵⁷

In 1994 the United States imported \$22 million of fruits and vegetables from South Africa.

d. Jasmine

⁵⁵ Interview by Department of Labor official with Professor Sarah Christie, Professor Evance Kalula, and Davey Bosch, Center for Rural Legal Studies, Capetown, June 9, 1994.

⁵⁶ Interview by Department of Labor official with Professor Henry Chipeya, University of Capetown, Capetown, June 9, 1994.

⁵⁷ *Towards the Elimination of Child Labor* (Johannesburg: Network Against Child Labor, n.d.) 1-2 [on file].

Children are regularly employed picking jasmine in Egypt.⁵⁸ Between July and October, recruiters take children from villages in the Nile Delta to gather the flowers in the middle of the night, when the essence is purest. Recruiters prefer small children, because their small hands better enable them to pick delicate single flowers. The children work barefoot in the mud and must rely on their sense of touch as there is no light. The children work 9 hour shifts without eating or stopping until the morning sun grows too strong. The children are paid 3 Egyptian pounds per day. If the children stop work for any reason -- for example, to avoid swarms of mosquitos -- they may be caned by the recruiter.⁵⁹

Imports of jasmine from Egypt by the United States in 1994 were \$75,000.

e. Rubber

There are reports of some children working on large rubber plantations in Côte d'Ivoire. The children have been observed helping their parents to dig holes and plant seeds in the nurseries and in some cases assisting in the collection process. Children work as part of their family units and are not directly compensated.⁶⁰ More information is needed to determine the extent of child labor in Ivoirian rubber plantations.

U.S. imports of rubber from Côte d'Ivoire in 1994 totalled \$8 million.

f. Sisal

In Tanzania many children aged 12-14 are employed in the sisal industry, where they cultivate the immature sisal, transplant it once the plants have reached the required height, and weed it throughout the year. The weeding is done almost exclusively by children. Children also carry wet sisal fibers from the machines that strip the leaves to the drying lines, and collect the short fibers that are ejected from the brushing machines.⁶¹

On one plantation, children composed 30 percent of the workforce. They work up to

⁵⁸ Marie Dorigny and Sorj Chalandon, *Children in Shadow* (Parma: International Labour Organization, 1993) [hereinafter *Children in Shadow*].

⁵⁹ See *Children in Shadow*.

⁶⁰ American Embassy-Abidjan, unclassified telegram no. 4697, May 16, 1995.

⁶¹ *Child Labour in Tanzania* at 13.

11 hours per day, 6 days per week, with no regular or specified rest periods. Their earnings are approximately one-half those of adults, not enough to adequately pay for lodging and food.⁶² A survey of the children working on the plantation found that 12 percent had never gone to school; 38 percent dropped out of primary school; and 50 percent had completed primary school. None received education beyond primary school.⁶³

Sisal production is hazardous. Children regularly work under the hot sun and during rain without protective clothing. Continuous inhalation of sisal fibers and air-borne dust from the brushing machines causes byssinosis, a lung disease. When carrying wet sisal fibers, children are exposed to the sisal liquid, which irritates the skin and causes severe itching. During weeding, children are injured by the sharp needle points of the sisal plants.⁶⁴

In Kenya, some migrant children work in the sisal industry, usually for friends and relatives who are hired as subcontractors by plantation operators.⁶⁵

In 1994 the United States imported \$3 million of sisal from Tanzania and \$74,000 from Kenya.

g. Sugar

In the Côte d'Ivoire, children work alongside their parent on both large and small sugar cane plantations. Children perform tasks such as stacking the cut cane, while young teenagers sometimes assist in harvesting the cane.⁶⁶

⁶² *Child Labour in Tanzania* at 13.

⁶³ *Child Labour in Tanzania* at 14.

⁶⁴ *Child Labour in Tanzania* at 13.

⁶⁵ Onyango at 162.

⁶⁶ American Embassy-Abidjan, unclassified telegram no. 4697, May 16, 1995.

In 1994 the United States imported over \$3 million of sugar from Côte d'Ivoire.

h. Tea

Tea estates in Zimbabwe employ a large number of children, often 10-12 years old, on a part-time, contract basis. They are paid according to the amount of tea picked. A study of child labor on tea estates in Manicaland found that child workers begin their work day at 5:30 a.m., walk 5-8 kilometers to the tea fields, and work until 11:30 a.m. When they finish picking the tea leaves, they carry the sacks of leaves to the weighing station; they then are permitted to go to school, which begins at 1:00 p.m. If they fail to pick the minimum daily load they are forced to work a half day on Saturday as punishment.⁶⁷ The clinic staff on one tea plantation found there were "frequent cases of children with abdominal pains and cuts in the hands and legs from tea picking."⁶⁸ The children suffer exhaustion and an inability to concentrate at school as a result of this schedule. In addition, they suffer frequent abdominal pains from tea picking. The sharp edges of the tea leaves cause cuts on their hands and feet. Children commonly suffer lacerations and callouses on their plucking fingers, known as "tea ulcers."⁶⁹

In 1994 the United States imported \$46,000 of tea from Zimbabwe.

i. Tobacco

Children are employed as casual laborers on tobacco plantations in Zimbabwe. They work during the peak harvest season, which lasts 1-3 months per year, and during vacations. Children who weed and plant tobacco are reported to suffer reactions from the use of ethylene dibromide. Children working in tobacco grading sheds are exposed to steam, smoke and dust, which can cause asthma. They are also exposed to heat and fire from boilers inside

⁶⁷ *Toward Action Against Child Labour in Zimbabwe* at 47.

⁶⁸ Rene Loewenson, *Child Labour in Commercial Agriculture in Zimbabwe: Report of a Case Study* (Harare: ILO International Programme on the Elimination of Child Labour, 1995) 8.

⁶⁹ *Toward Action Against Child Labour in Zimbabwe* at 47-8.

the sheds.⁷⁰

In 1994 the United States imported \$30 million of tobacco from Zimbabwe.

In South Africa, some children are reported to work on tobacco farms.⁷¹ Children on tobacco farms in the eastern Transvaal have been seen and photographed spreading pesticides with their bare hands.⁷²

In 1993 a South African newspaper, the *City Press*, found children as young as 9 years old working on tobacco farms at Hekpoort, in the West Rand, working for 30 Rand per week (approximately \$10). One 9 year old girl packing tobacco leaves -- one of 20 found working in a hot, dark, smoke-filled packing room -- told the newspaper that she had never attended school and said she could not even remember when she had begun to work on the farm. She said she worked from 7:00 a.m. to 5:30 p.m., 5 days per week.⁷³

In 1994 the United States imported \$4 million of tobacco from South Africa.

j. Vanilla

In Madagascar, children are employed in small-scale private farms, mostly along the Eastern Coast, that produce vanilla. Children aged 10 and older nip the flowers of the vanilla orchid, usually from 4:00 a.m. to 7:00 a.m. in the morning. They also harvest the raw vanilla bean. Children earn 500 FMG (12 cents) per day. Child labor tends to be most prominent where there are no schools. The largest enterprises do not employ children, as high unemployment allows these producers to hire adult laborers at low wages.⁷⁴

In 1994 the United States imported \$32 million of vanilla beans from Madagascar.

⁷⁰ *Toward Action Against Child Labour in Zimbabwe* at 48.

⁷¹ Interview by Department of Labor official with Professor Henry Chiyea, University of Capetown, Capetown, June 9, 1994.

⁷² Loffell at 3, *citing New Nation*, February 4, 1993.

⁷³ *City Press* [South Africa], March 28, 1993 at 5.

⁷⁴ American Embassy-Antananarivo, unclassified telegram no. 2383, April 19, 1995.

2. Asia

Most of the world's working children live in Asia, and the majority of these children work in the agricultural sector. Children in Asia can be found performing virtually all types of farm work.

A 1995 report by the Indian Commission on Labor Standards states that, "(e)ven on a conservative estimate, India has the largest number of urban and rural child workers in the world."⁷⁵ The report acknowledges at least 18.6 million working children in 1990, but notes that private organizations have placed the figure at between 44 million to over 100 million.⁷⁶ Of the total, the report estimates that 85 percent work in agriculture and related activities.⁷⁷ This figure does not distinguish between children working on plantations and children working on family farms. Children in India work on plantations producing products such as tea, coffee, cashew nuts, tobacco, cardamom, cinchona (quinine), natural rubber, and in the fish processing industry.⁷⁸

Other Asian countries also have large numbers of children working in the agricultural sector. UNICEF and the Government of Pakistan estimate that there are 3 million children working in Pakistan's agricultural sector.⁷⁹ A 1989 Labor Force Survey by the Bangladesh Bureau of Statistics found that 81.9 percent of the country's 6.1 million economically active

⁷⁵ Indian Commission at 1.

⁷⁶ Indian Commission at 1-2. The estimate of 44 million was made by the Operations Research Group in Baroda in 1984, and the estimate of 100 million child workers was made by the Center for Concern of Working Children in Bangalore in 1994.

⁷⁷ Indian Commission at 6

⁷⁸ American Embassy-New Delhi, unclassified telegram no. 5146, April 18 1995; Manjari Dingwaney, Sunil Dogra, R. Vidyasagar, and Renu Gupta, *Children of Darkness: A Manual on Child Labour in India* (New Delhi: Rural Labour Cell, 1988) 27-28; R.K. Goyal, "Child Labour in India," *Indian Labour Journal* (February, 1987) 181.

⁷⁹ UNICEF and the Government of Pakistan, *Situation Analysis of Children and Women in Pakistan* (Islamabad: UNICEF, 1992) 83.

children worked in the agricultural sector.⁸⁰

In Nepal, children living on tea plantations prune, replant, sow, and weed.⁸¹ In Bangladesh children are reported to work on tea and tobacco plantations.⁸² Children on Sri Lanka's tea plantations weed and pluck tea leaves; on rubber plantations they weed and tap the rubber trees for latex; and on coconut estates children gather and collect nuts, and weed.⁸³

In Indonesia, an estimated 82.4 percent of boys and 64.8 percent of the girls between 10-14 work in the agricultural sector.⁸⁴ Children in Indonesia work on palm, rubber, tea, and tobacco plantations.⁸⁵ NGOs in Malaysia estimate that 20 percent of the working children in the country are employed in commercial agriculture.⁸⁶ An estimated 85 percent of the child workers in Thailand work in agriculture.⁸⁷ It is reported that children aged 12-15 are

⁸⁰ Bangladesh Bureau of Statistics, *Report on Labour Force Survey 1989: Trend of Civilian Labour Force* (Dhaka: Bangladesh Bureau of Statistics, 1992) xiii, 38-39.

⁸¹ Omar Sattaur, *Child Labour in Nepal* (Kathmandu: Anti-Slavery International and Child Workers in Nepal Concerned Center, 1993) 11, 41.

⁸² American Embassy-Dhaka, unclassified telegram no. 1795, April 12, 1995; Peter Lee-Wright, *Child Slaves* (London: Earthscan, 1990) 75-80 hereinafter Lee-Wright].

⁸³ Dhammika Moonemalla, "Country Paper: Sri Lanka," in International Programme for the Improvement of Working Conditions and Environment (PIACT), *Asian Regional Tripartite Workshop on Practical Measures to Combat Child Labour: Proceeding and Working Papers* (Geneva, International Labor Organization, 1987) 176 [hereinafter, *Asian Regional Tripartite Workshop*].

⁸⁴ *Child Labour in Indonesia* at 7.

⁸⁵ *Child Labor in Indonesia* at 9-10; Augustien Saksono, "Country Paper: Indonesia," in *Asian Regional Tripartite Workshop* at 196; American Embassy-Jakarta, unclassified telegram no. 3292, April 13, 1995. The embassy telegram states that non-governmental organizations have reported children working on cocoa plantations.

⁸⁶ American Embassy-Kuala Lumpur, unclassified telegram no. 2181, April 28, 1995.

⁸⁷ Mit Charoenwal, "Country Paper: Thailand," in *Asian Regional Tripartite Workshop* at 271.

commonly recruited for work on sugar cane and rubber plantations in Thailand.⁸⁸

The ILO estimates that 18 percent of the child workers aged 5-14 living in rural areas in the Philippines are wage laborers, many of whom are employed as farm workers.⁸⁹ Children in the Philippines are employed in various agricultural enterprises, including fruit and vegetable farms, rice and corn production, poultry farms, sugar plantations, animal care, fishing, and copra making.⁹⁰

a. Tea

Children working on tea plantations in India assist their parents to pluck and sort tea leaves and carry baskets of harvested tea. Most of the plantations are located in the states of Assam and West Bengal.⁹¹ Estimates of the number of children working on plantations in these two states vary from 21,000 to 77,000.⁹²

⁸⁸ *Recent Developments in the Plantation Sector* at 50.

⁸⁹ Victoria Rialp, *Children and Hazardous Work in the Philippines* (Geneva: International Labour Organization, 1993) 1-2 [hereinafter Rialp].

⁹⁰ *Comprehensive Study on Child Labor in the Philippines*, (Manila: Institute for Labor Studies, 1994) 56-57, 144 [hereinafter *Comprehensive Study on Child Labor in the Philippines*].

⁹¹ American Embassy-New Delhi, unclassified telegram no. 5146, April 18, 1995.

⁹² The ILO, in *Recent Developments in the Plantation Sector*, cites S.K. Bhowmit's figure of 59,000 children aged 12-16 work on tea plantations in Assam, 18,000 in West Bengal. *Recent Developments in the Plantation Sector* at 50, citing S.K. Bhowmit, "Plantation Labor Act and Child Labour," *Economic and Political Weekly* (Bombay) vol. XXVII, no. 42 (October 17, 1992). India's 1980 census recorded 80,499 children working on tea plantations throughout the country. Mahendra P. Lama, "Child Labour in the Darjeeling Tea Industry," in Indira Hirway, Jacqui Cottyn, and Pushkar Pandya, eds., *Towards Eradication of Child Labour* (Ahmedabad: Ghandi Labour Institute, 1991) 174. Professor Myron Weiner places the number of children between 12 and 15 working on tea plantations in West Bengal and Assam at 21,000. Weiner at 51. Child welfare groups estimate as many as 64,000 children work on tea plantations in Assam. Molly Moore, "India's Battered Tea Industry Seeks New Leaves, Markets," *Washington Post*, October 23, 1994, A37.

The demand for labor on tea plantations is highly seasonal. During the plucking and harvesting season, June-September, children frequently accompany their parents -- usually their mothers -- to work in the fields. They help to sort leaves and carry baskets of plucked leaves.⁹³ The former chairman of the Tea Board in West Bengal described life on the plantation:

The workers are as attached to the land as the tea bushes. They were born in the tea estates. They live there all their lives. They die there. The mother who works in the tea gardens has no place to leave her children. She puts her child on her back and brings the child with her when she works. What is more natural than that the child wants to know what the mother is doing and wants to help her pluck the tea. That is how the child becomes a worker. It is easy for children to pluck. Their fingers are nimble and the bushes are at their height. The child plucks the leaves and puts them into her mother's basket. Whatever the child plucks increases the pay of the mother. I would not say that the children are employed. They are helping their parents. Then, when the child is twelve, she is given a basket of her own and earns her own wages. She is paid half of what an adult is given.⁹⁴

During the harvest season, children have sufficient time to attend school if schools are available.⁹⁵ Most of the children, however, drop out of school at ages 9-10 and spend the non-harvest period pruning bushes and performing other chores.

Because of the high seasonal demand during the harvest period, tea plantations employ many migrant workers. The migrant workers bring their families to work on the plantations. Many of the children are under 12 years old.⁹⁶

In 1994 the United States imported \$7 million of tea from India.⁹⁷

⁹³ American Embassy-New Delhi, unclassified telegram no. 5146, April 18, 1995; Weiner at 51.

⁹⁴ *Quoted in* Myron Weiner at 51.

⁹⁵ American Embassy-New Delhi, unclassified telegram no. 5146, April 18, 1995.

⁹⁶ Weiner at 52.

⁹⁷ American Embassy-New Delhi, unclassified telegram no. 5146, April 18, 1995.

b. Vegetables

Children can be found working on vegetable farms in the Cordillera region of the Philippines, an area that encompasses the northern section of the island of Luzon. A 1990 UNICEF-sponsored study reported that children work 10 hours per day from Monday through Saturday with only short breaks and half a day on Sunday. The children earn 25 pesos (approximately \$0.95) daily, less than the minimum wage and less than half the pay of adult workers. The study found a correlation between the physical strain of the work, the constant exposure to natural elements, toxic pesticides, and other chemicals with retarded growth, disease, and malnutrition.⁹⁸

Children on vegetable farms in the Benguet Province in the Philippines work 8-10 hours per day, Monday-Saturday.⁹⁹ They weed, cultivate, turn soil, fix canals, harvest, and apply pesticides.¹⁰⁰ The children are paid much less than their adult counterparts.¹⁰¹ Children suffer from muscle strain and fatigue, and are exposed to harmful pesticides.¹⁰²

U.S. imports of vegetables from the Philippines totalled \$550,000 in 1994.

c. Palm Oil

⁹⁸ R.R. Boquiren, *Child Labor in the Cordillera: a Primer*, a study by the University of the Philippines College Baguio, as part of the UNICEF-assisted Joint DOLE-DECS-UPS Project "Breaking Ground for Community Action on Child Labor" (June, 1990).

⁹⁹ Amparo B. Pinlac, "Country Paper: Philippines," in *Asian Regional Tripartite Workshop* at 308 [hereinafter Pinlac].

¹⁰⁰ Pinlac at 308; *see also Comprehensive Study on Child Labor in the Philippines* at 56-57.

¹⁰¹ Pinlac at 308.

¹⁰² *Comprehensive Study on Child Labor in the Philippines* at 56-57. The danger from poisonous agrochemicals has been acknowledged by former Philippines Labor Secretary Nieves Confesor, who noted that more than 2,000 child workers in Benguet, Ifugao, and Mountain Provinces have been exposed to cyanide, a highly poisonous chemical that can damage the lungs. *International Child Labor Hearing*, U.S. Department of Labor (May 5, 1994) (Statement of International Labor Rights Education and Research Fund) *citing* "Children Used to Spray Cyanide in Benguet," *Manila Chronicle*, July 27, 1992.

In Malaysia children can be found working on palm oil plantations, where they assist their parents to collect loose fruit, help carry and load bunches of oil palm fruit, and weed the oil palm fields.¹⁰³ One report estimates that 60 percent of the children working on palm oil plantations in Malaysia are 6 to 10 years old.¹⁰⁴ Another survey found that only 16 percent of the palm oil plantations provide schooling.¹⁰⁵ Workers on palm oil plantation must collect 1.5-2 tons of palm fruit each day.¹⁰⁶ For workers to successfully meet their daily quota of palm fruit collection, notes one study, "assistance from the child worker is the savior."¹⁰⁷

U.S. imports of palm oil from Malaysia in 1994 totalled \$56 million.

d. Rubber

Children on rubber plantations in Malaysia mark rubber trees, tap rubber trees, collect latex, clean latex cups, spray pesticides, and work in factories on the plantations. They also perform many supporting tasks related to rubber production.¹⁰⁸ Virtually all of the children are members of ethnic Indian families whose descendants were brought to Malaysia by the British as indentured servants at the turn of the century.¹⁰⁹

Most of the children work as part of a family unit, assisting their parents to tap the trees and clean the latex cups. One survey found that 92 percent of households on four rubber estates had at least one child below the age of 15 working, and that only 8 percent of

¹⁰³ American Embassy-Kuala Lumpur, unclassified telegram no. 2181, April 28, 1995; Jomo K.S., Aini, Ramasamy and Suppiah at 149-151, 162-163.

¹⁰⁴ Lee-Wright at 93.

¹⁰⁵ Jomo K.S., Aini, Ramasamy and Suppiah at 157.

¹⁰⁶ Jomo K.S., Aini, Ramasamy and Suppiah at 160; *Suara Sam* [Malaysia] (1987) 5; Lee-Wright at 103.

¹⁰⁷ Jomo K.S., Aini, Ramasamy and Suppiah at 160.

¹⁰⁸ Jomo K.S., Aini, Ramasamy and Suppiah at 148-150; "Plantation Children in Malaysia," *Child Workers in Asia*, vol. 9 no. 2 (April-June 1993) 18-19; Lee-Wright at 96 [hereinafter "Plantation Children in Malaysia"].

¹⁰⁹ Jomo K.S., Aini, Ramasamy and Suppiah at 144.

the households in rubber estates did not send their children to work.¹¹⁰ The major reason cited by parents for using their children is a requirement that workers tap at least 600-700 trees per day in order to receive the daily wage. This is more easily achieved by recruiting as many family members as possible to tap the trees.¹¹¹ Most children themselves do not directly receive their earnings.¹¹²

Children who tap rubber with their parents usually work 7 days per week, 8 hours per day. Rubber tapping begins early in the morning, usually at 5:30 a.m., and continues until 3:00 p.m. Many children who clean the latex cups may be under 14 years of age.¹¹³

Injuries in the rubber industry are common: in one report, 15 percent of the children interviewed suffered injuries, mostly from tapping knives, fallen branches, bee stings, falling machinery, and cuts from broken glass.¹¹⁴ Children are regularly exposed to hazardous pesticides and thorny plants. They rarely wear footwear and are susceptible to insect and leech-bites, as well as to mosquitos that carry the deadly "Dengue" disease. Because they generally do not wear protective clothing, children are also bitten by poisonous snakes and stung by hornets, scorpions, and centipedes. Children's eyes are not protected from chips of wood and flying dirt caused by drilling holes in the trees.¹¹⁵

While many children still work on rubber plantations, the numbers appear to be diminishing as employers are increasingly replacing domestic with foreign labor, especially from Indonesia. Most of the foreign workers do not have their children with them.¹¹⁶

¹¹⁰ Jomo K.S., Aini, Ramasamy and Suppiah at 150.

¹¹¹ *Suara Sam* [Malaysia] (1987) 5.

¹¹² "Plantation Children in Malaysia" at 19.

¹¹³ "Plantation Children in Malaysia" at 19.

¹¹⁴ "A Picture of Indochina," *Child Workers in Asia*, vol. 9 no. 2 (April-June 1993) 19.

¹¹⁵ Abdul Azil Bin Haji Ismail, "Country Paper: Malaysia," in *Asian Regional Tripartite Workshop* at 254.

¹¹⁶ Jomo K.S., Faculty of Economics and Administration, University of Malaya, letter to the International Child Labor Study, Department of Labor, July 19, 1995 [on file]; American Embassy-Kuala Lumpur, unclassified telegram no. 2181, April 28, 1995.

In 1994 the United States imported \$138 million of natural rubber from Malaysia.

e. Sugar

Children on sugar plantations in Ormoc City and Negros Occidental in the Philippines weed, cut cane, and apply fertilizers. Some children and adolescents operate horse rigs in the sugar fields, a job that can be strenuous and entails long hours of work.¹¹⁷ In Negros, children begin to weed the fields when they are as young as 7-8 years old, and begin to cut the cane at age 12. The children who work are children of unskilled resident plantation workers and children of migrants who regularly move from plantation to plantation.¹¹⁸ Among the hazards that exist for children on sugar plantations are injuries from using sharp knives, and poisoning from the use of dangerous fertilizers.¹¹⁹

In 1994, the Philippines exported \$45 million of sugar to the United States.

Deceptive recruiting of children and debt bondage occurs in connection with sugar cane plantations in Thailand, mainly in the province of Kanchanaburi. Children and adults are recruited through intermediaries for the plantations; the workers are enticed into taking loans, becoming entrapped in debt bondage.¹²⁰

The United States imported \$6 million of cane sugar from Thailand in 1994.

f. Fishing

In Thailand, children are involved in all stages of the fishing industry. A study of 427 children and adolescents working in 44 fishing enterprises in Samut Sakhon province, a

¹¹⁷ *Comprehensive Study on Child Labor in the Philippines*, at 57.

¹¹⁸ Maria Anna Mapa, Ramon Lachica, May Angeline Daanoy-Satake, and Violeta Lopez-Gonzaga, *Tender Hands that Toil: A Study of the Phenomenon of Child Labor in Northern Negros* (Bacolod City: University of St. La Salle, 1990) 11-12 [hereinafter Mapa, Lachica, Daanoy-Satake, and Lopez-Gonzaga].

¹¹⁹ Mapa, Lachica, Daanoy-Satake, and Lopez-Gonzaga at 57.

¹²⁰ Report of the Committee of Experts on the Application of Conventions and Recommendations: General Report and Observations Concerning Particular Countries (Geneva: International Labor Organization, 81st session, 1994) 135.

center of the fishing industry located approximately 25 miles southwest of Bangkok, found that 48 percent were aged 14 or under; over 85 percent of the workers had started to work at age 14 or younger.¹²¹ Of the working children who lived in the area, about 80 percent were girls.¹²² Nearly 90 percent worked full time and 62 percent earned their own income.¹²³ Moreover, the researchers observed that many children as young as 5 or 6 years old accompanied their parents or other relatives for the purpose of working.¹²⁴

Most of the children surveyed (71 percent) clean, bone, and skin fish; shell squid, mussels, shrimp and crab; and wash squid to remove the ink. Other children sort, weigh, check, and load the fish; process seafood; work on fishing boats; build boats; and work on the docks.¹²⁵ Salaries range from an average of 541 Baht per month (approximately \$22.00) for boat building to 1,682 Baht per month (approximately \$69.00) for sorting, weighing, checking, and loading the fish. The average wage paid for cleaning fish is 873 Baht per month (approximately \$36.00), for cleaning and shelling seafood, 764 Baht per month (approximately \$31.00).¹²⁶ As children gain more experience cleaning and shelling fish, they earn more, because they are paid by the piece.¹²⁷

The children who shell seafood generally squat on the floor or sit on a small bench for the duration of the working day, which can last 15 hours or longer. Children of all ages use sharp knives or shelling tools, and suffer frequent cuts and scrapes. Because they work with salt water and fish all day, many children suffer from skin diseases on their hands. Protective gloves are not used because they slow the pace of work. Many children take off

¹²¹ Kerry Richter and Orathai Ard-am, *Child Labor in Thailand's Fishing Industry* (Salaya, Nakhon Pathom, Thailand: Institute for Population and Social Research, Mahidol University, 1995) Table 1 [hereinafter Richter and Ard-am].

¹²² Richter and Ard-am, Table 1.

¹²³ Richter and Ard-am at 20-21.

¹²⁴ Richter and Ard-am at 16.

¹²⁵ Richter and Ard-am at 21.

¹²⁶ Richter and Ard-am at Table 4.

¹²⁷ Richter and Ard-am at 18.

2 or 3 days each month because of hand problems.¹²⁸

In some enterprises, children begin work at 1:00 - 2:00 a.m., and work until after 6:00 p.m. Over half the children work 10 hours per day or more.¹²⁹ Enterprises that specialize in chopping fish are often open 24 hours per day. Some women bring their children and work 3-4 days consecutively without stopping. In approximately half of the fishing enterprises studied, children work every day of the week. Most of the children who do attend school work only on weekends, but crab shelling takes place every day after school and on weekends.¹³⁰

There are many migrant workers aged 12-15 in the Thai fishing industry. Migrant workers often outnumber resident workers. Some firms hire only migrant workers. The migrant workers salt and ferment fish, make fish cakes and shrimp and fish balls, and shell mussels. The workers usually live at their place of work. Among the migrant workers are refugees and migrants (with no legal status) from Burma, including ethnic Karens, who receive no compensation. They work solely in return for food and housing.¹³¹

Children in Thailand also work in deep sea fishing operations. The 1985 Marine Fishery Census of Thailand found 2,442 children aged 11-14, of whom 687 worked for commercial fishing operations while the rest worked for their families. Children begin their training by acting as divers, a job older fishermen choose not to perform because it is too dangerous. The children dive into the sea to close the mouth of the net and stay with the net until it is hauled in. Hazards include drowning, getting caught under the nets, injuries caused by hauling rope, and injuries from malfunctioning equipment. The boats, which usually stay at sea for 20-25 days at a time, often have poor sanitary facilities and unhealthy conditions.¹³²

In 1994 the United States imported \$829 million of shrimp, and \$51 million of fresh

¹²⁸ Richter and Ard-am at 18-19

¹²⁹ Richter and Ard-am at 21 and Table 3.

¹³⁰ Richter and Ard-am at 19.

¹³¹ Richter and Ard-am at 20.

¹³² Chantana Banpasirichote and Amara Pongsapich, *Child Workers in Hazardous Work in Thailand* (Chulalongkorn University Social Research Institute, 1992) 42-46.

and processed fish and other seafood from Thailand.

Children are reported to work in Bangladesh's shellfish industry. In Chittagong and Cox's Bazar, in southeastern Bangladesh, large numbers of children can be found on the beaches collecting shrimp "fry" for cultivation by shrimp farms. Children are also reported to work in factories in Chulna (southwestern Bangladesh) shelling shrimp and crabs and possibly packing for freezing.¹³³

Imports of shrimp from Bangladesh by the United States in 1994 totalled \$98 million.

Situations of forced labor of children occur in the fishing industries of Indonesia, Sri Lanka, the Philippines, India, and Pakistan.

Young boys are exploited in forced labor on offshore fishing platforms off the coast of Northern Sumatra in Indonesia.¹³⁴ There are an estimated 700 to 1500 platforms in the region, employing three to ten children each. The age of the boys on these platforms ranges from 10 to 18.¹³⁵ They are recruited by contract agents who promise parents that their sons will be employed in well-paying jobs. The children are then held as virtual prisoners for up to three months at a time. They are sometimes sexually abused. Children are known to attempt escape by jumping off the platforms and swimming to nearby fishing boats.¹³⁶

The fishing platforms, often poorly constructed, are from 1 to 30 kilometers off-shore and range in size from 50 feet wide and 100 feet long. The children, usually supervised by one or two adults, throw fishing nets into the water and haul them onto the platforms, where the fish is then dried. The platforms often have holes, and it is not uncommon for the

¹³³ American Embassy-Dhaka, unclassified telegram no. 1795, April 12, 1995.

¹³⁴ American Embassy-Jakarta, unclassified telegram no. 3292, April 13, 1995 [hereinafter Jakarta 3292]. See also Jeff Ballinger, *Goods Produced for Export to the United States Using Child Labor in Indonesia* (May 1, 1994) 7 [on file]; interview by U.S. Department of Labor official with Dr. David Parker, Occupational Epidemiologist, (March 29, 1995) [on file] [hereinafter Parker interview].

¹³⁵ The U.S. Embassy Jakarta notes the children are age 15 to 18. See Jakarta 3292. Other reports claim that the average age is 12 but that some boys are as young as 10. See Parker interview.

¹³⁶ Parker interview.

children to fall through these holes into the water.¹³⁷

Several non-governmental organizations are actively trying to combat the use of bonded child labor on fishing platforms and have launched public awareness campaigns and even attempted to rescue children from the platforms. One organization managed to bring some platform owners to court in 1994 but its efforts failed when the parents of the victims dropped the case.¹³⁸

United States imports of fresh and processed fish from Indonesia were \$27 million in 1994.

The International Labor Organization has noted reports of bonded children working in fishing camps on small islands off the northwestern and eastern coasts of Sri Lanka. More recent reports state that children perhaps are no longer employed in the fishing camps.¹³⁹ In the past, it has been alleged that boys have been removed from their parents for small sums of money -- even kidnapped in some cases -- by unscrupulous recruiters. The boys were used as forced labor in fishing camps; exposed to the elements, they were forced to clean, salt, and dry fish for up to 17 hours a day.¹⁴⁰ Older boys hauled in fishing nets. Police sources indicated that the children were "kept in conditions of virtual slavery" -- badly nourished, verbally and physically abused by employers and other workers in the camps, and

¹³⁷ Parker interview.

¹³⁸ Jakarta 3292.

¹³⁹ Although the present conflict in Sri Lanka makes it impossible to verify the exact situation in these areas, it has been suggested that the Tamil militants may have destroyed the fishing camps and eliminated child exploitation in this occupation. Goonesekere, writing in 1993, notes "(m)ore recent evidence indicates that children are perhaps no longer employed in the fishing camps." Goonesekere states "it has been suggested that the (Tamil) militants may have used their own method to destroy the fishing camps and eliminate child exploitation in this occupation," but notes that there is no verification of this. S.W.E. Goonesekere, *Child Labor in Sri Lanka* (Geneva: International Labor Organization, 1993) 9-10 [hereinafter Goonesekere]; *See also* 1994 *Report of the Committee of Experts* at 128; and telephone interview by U.S. Department of Labor official with Maureen Seniviratne, Protecting the Environment and Children Everywhere (PEACE), Colombo (June 13, 1995).

¹⁴⁰ *World Labor Report 1993* at 18.

receiving no wages.¹⁴¹ Due to ongoing political conflict in the regions where some fishing camps are reported to operate, the current status of the children is unknown.

In 1994 the United States imported \$310,000 of fresh and processed fish from Sri Lanka.

Child labor is also used in India's fishing industry. Approximately 20,000 children are reported to work in fish freezing and processing plants in Kerala. According to the Centre of Concern for Child Labour, children also work in fisheries, where boys are used "in loading and unloading and in skinning of the fish." They work from 4:00 p.m. to 7:00 a.m., and are paid on a piece-rate basis.¹⁴²

A recent report from India documents the incidence of bonded child labor in seafood cleaning factories. In February 1995 the *Bombay Times* described a seafood factory in Ratnagiri, India, a coastal city approximately 100 miles south of Bombay, that employs 30 girls who clean fish and shrimp continuously for 12 hours per day. Young girls were lured from Kerala and Tamil Nadu with promises of good jobs in Bombay, but were instead taken by private bus to seafood factories where they were forced to work under harsh conditions. The *Times* reported that in the area around Ratnagiri there has been a boom in the number of child workers in marine products and canning factories, but that the district administration and police have largely ignored the problem.¹⁴³

Parents received an advance of 400 rupees (approximately \$12.00) from a recruiter, which was deducted from the girls' earnings. For a period of 3 months while the debt was being paid off, the girls received no salary. The girls were paid Rs. 1.50 (approximately \$0.04) for each basket of fish they cleaned. One girl stated that she could clean no more than five baskets of fish per day. Often she was so tired she had to take a day of unpaid leave.¹⁴⁴

The rescue of an 11 year-old girl by her brother brought the situation to public

¹⁴¹ Gooneskere at 9.

¹⁴² Centre of Concern for Child Labour, *A Summary of Child Labour Report 1992* (New Delhi: Centre of Concern for Child Labour, 1992) 4.

¹⁴³ Suhas Phadke, "Eleven-year-old girls gets deliverance from sea of bonded labor," *Bombay Times*, February 14, 1995 [hereinafter Phadke].

¹⁴⁴ Phadke.

attention. Upon her rescue, she was hospitalized and medically determined to be malnourished. The skin on the palms of her hands had changed color from an infection caused by prolonged exposure to salt water.¹⁴⁵

In 1994 the United States imported \$122 million of shrimp, and \$27 million of other fresh and processed fish and seafood from India.

In the Philippines, many boys work as fishermen, while other children, mostly girls, work in fish processing plants. On the island of Basilan and in Masbate, boys work on fishing boats that stay out at sea all night. In Masbate children as young as 7 dry, clean, and sort fish. Children as young as 5 gather fish that have been left to dry.¹⁴⁶

A form of debt bondage based on a contract system of payment occurs in the Muro-ami fishing industry in the Philippines. Muro-ami fishing, introduced in the Philippines by the Japanese in the 1930s, is a labor intensive form of fishing, where hundreds of swimmers and divers maneuver a net to catch reef fish that cannot easily be harvested by other means. Muro-ami accounts for some two percent of the Philippines' total annual fish output.¹⁴⁷

Muro-ami operates on a contract-type system where fishermen are paid at the completion of a ten-month period at sea.¹⁴⁸ Fishermen are not paid until the completion of their contract. They are compelled to take advances from the master-fishermen to provide for their families in their absence. These advances are deducted from their final pay, an amount which is based on total sales. The recruits are bound to conditions of credit set by the master-fishermen, who have direct charge over them on board. Documents which stipulate conditions of credit, if provided, are written in legal terminology and are generally poorly understood by recruits. In other cases, agreements are oral.¹⁴⁹

¹⁴⁵ Phadke

¹⁴⁶ *Comprehensive Study on Child Labor in the Philippines* at 56.

¹⁴⁷ Rialp at 6-7.

¹⁴⁸ Henk Van Oosterhout, "Child Labor in the Philippines: The Muro-ami deep-sea fishing operation," in *Combating Child Labor* (Geneva: International Labor Organization, 1988) 111 [hereinafter Van Oosterhout].

¹⁴⁹ Van Oosterhout at 114.

Deductions from pay are also routinely taken to compensate for the cost of food, cooks' salaries, equipment rentals and maintenance and medical expenses. If a worker is sick for a day, a commensurate amount of wages is deducted from his pay. Fishermen are paid out of any remaining profits according to their rank and performance. While deductions usually range from 30 to 40 percent of total pay, there are reported cases where deductions amount to over 100 percent of pay due -- forcing the fishermen to join the operation for another ten months in order to pay off their debts.¹⁵⁰

Muro-ami fishing in the Philippines is generally considered a good source of income, and fathers often take two or three sons -- sometimes as young as seven to nine years old -- with them during the 10-month period. The majority of the swimmers and divers -- the most physically dangerous tasks -- are children between the ages of 12 and 14. They have no diving equipment other than wooden goggles, and injuries such as ruptured eardrums are common. The boys are also in danger from shark attacks. The boats from which they dive and on which they live are overcrowded and unsanitary.¹⁵¹

In 1988 a report stated that approximately 15 percent of the workers on each ship were below 15 years old.¹⁵² A 1995 report stated that while boys were once hired in great numbers for the Muro-Ami operations, recent press reports and inspections indicate that the participation of children has since dwindled to a relative handful. This change has reportedly come about through pressure maintained by national civic groups, community mobilization, cooperation by international organizations such as the ILO and UNICEF, and stepped up enforcement of the minimum age of 18 for employment in the industry.¹⁵³

U.S. imports of fresh and processed fish from the Philippines were \$8 million in 1994.

Entire families are entrapped in bondage in fishing operations in Rawalpindi in

¹⁵⁰ Van Oosterhout at 111-112.

¹⁵¹ Rialp at 8.

¹⁵² Van Oosterhout at 114.

¹⁵³ Jo Boyden and William Myers, *Exploring Alternative Approaches to Combating Child Labor: Case Studies from Developing Countries*, Innocenti Essays No. 6 (UNICEF and International Child Development Center, February 1995) 14 [hereinafter Boyden and Myers].

northern Pakistan.¹⁵⁴ Contractors who are licensed to fish in water reservoirs or other areas hire fishermen and advance them loans to pay for boats and fishing nets. These loans become an instrument of bondage, with the entire family becoming engaged in the work -- boys help with the fishing while girls repair and maintain the nets. The families are at the disposal of the contractor and are required to move from one area to another according to his orders.¹⁵⁵

U.S. imports of fresh and processed fish from Pakistan were \$430,000 in 1994.

g. Rattan

Indigenous Dumagat families in the Central Luzon region of the Philippines work gathering rattan under conditions of debt bondage. Under the "tabong" system, a tabong, or merchant, advances money to Dumagat families in return for their labor. In 1991, Anti-Slavery International documented the situation of one-hundred Dumagat families working under the tabong system. Children were found to be working along with their parents, laboring...

*all day and every day gathering and transporting rattan for the tabongs in exchange for some rice.... These contemporary slaves can only be freed when the debt, largely fictitious, has been redeemed. This is an impossibility.*¹⁵⁶

Tabongs often transfer debts among themselves; when this occurs the debts usually increase.¹⁵⁷ In 1994, Anti-Slavery International indicated that the debt bondage of Dumagat

¹⁵⁴ *State of Human Rights in Pakistan* (Lahore: Human Rights Commission of Pakistan, 1994) 121-122 [hereinafter *State of Human Rights in Pakistan*].

¹⁵⁵ *State of Human Rights in Pakistan* at 122.

¹⁵⁶ *Debt Bondage of a Philippines Dumagat Community*, Anti-Slavery International submission to the U.N. Working Group on Contemporary Forms of Slavery, Sixteenth Session, 1991 [on file] [hereinafter 1991 Anti-Slavery International submission].

¹⁵⁷ 1991 Anti-Slavery International submission.

communities continued to occur.¹⁵⁸

The United States imported \$8,000 of rattan from the Philippines in 1993. U.S. imports of rattan furniture from the Philippines in 1994 were worth \$22 million.

h. Other

Child labor is widespread on tobacco plantations in Bangladesh. Among other tasks, boys under 14 help spray chemical fertilizers on the fields. Girls help their mothers dry, cut, and pack the tobacco leaves.¹⁵⁹ In 1994, the United States imported \$546,000 of tobacco from Bangladesh.

In Indonesia's tobacco industry, children work both on plantations and in factories. In one factory, children reportedly comprised 30 percent of the 1500 person work force.¹⁶⁰ The United States imported \$11 million of tobacco from Indonesia in 1994.

In Malaysia, children working on cocoa plantations pick and split pods and scoop the beans. They also climb cocoa trees and pluck pods from low branches.¹⁶¹ In 1994 the United States imported \$40 million of cocoa products from Malaysia.

Children in India work on cashew farms, sorting the fruits and separating the nuts from fruits. Other children shell and process whole cashews imported from East Africa.¹⁶² One estimate is that 20,000 children are engaged in processing cashews.¹⁶³ Because the

¹⁵⁸ *The Enslavement of Indigenous Peoples*, Anti-Slavery International submission to the U.N. Working Group on Contemporary Forms of Slavery, Nineteenth Session, April 1994 [on file].

¹⁵⁹ Lee-Wright at 73.

¹⁶⁰ *Recent Developments in the Plantation Sector* at 50.

¹⁶¹ American Embassy-Kuala Lumpur, unclassified telegram no. 2181, April 28, 1995.

¹⁶² Pharis J. Harvey and Lauren Riggan, *Trading Away the Future* (Washington, D.C.: International Labor Rights Education and Research Fund, 1994) 46-47.

¹⁶³ Joseph Gathia, Centre of Concern for Child Labor, letter to the International Child Labor Study, Department of Labor, April 18, 1994 [on file].

industry is seasonal, children do not work full-time. Imports of cashews from India by the United States totalled \$175 million in 1994.¹⁶⁴

3. Latin America

Child labor in agriculture in Latin America is found principally in Mexico, Central America, the Andean region, and inland areas of Argentina and Brazil.

In Guatemala, over 300,000 people, mostly from the country's highland region, migrate every year to the southern coast to work on coffee, sugar cane, cardamom and cotton plantations. It is estimated that roughly 27 to 32 percent of the migrants are children. They live in substandard housing and are frequently malnourished. Children between the ages of 12-14 do the same work as adults but are paid one-half as much.¹⁶⁵

The pledging of children's labor by parents is reported to occur in commercial vegetable farming in Honduras. Parents receive a pay advance and commit their children to future work. The practice is estimated to affect only a small number of children -- less than one percent of child agricultural workers.¹⁶⁶ Children are also reported to work on coffee plantations in Honduras.

In El Salvador children frequently work alongside their parents in commercial agriculture, especially during planting and harvesting seasons.¹⁶⁷ Anecdotal reports from Costa Rica suggest that children have a "noticeable presence" in some non-traditional export industries such as ornamental flowers and chili peppers.¹⁶⁸

Approximately 3 million children between the ages of 10 and 14 are reported to be

¹⁶⁴ American Embassy-New Delhi, unclassified telegram no. 5146, April 18, 1995.

¹⁶⁵ *The Rights of Children in Guatemala*, Submission of the International Federation of Human Rights to the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities, U.N. Doc. E/CN.4/Sub.2/199/NGO/15 at 3.

¹⁶⁶ American Embassy-Tegucigalpa, unclassified telegram no. 2267, April 10, 1995.

¹⁶⁷ American Embassy-San Salvador, unclassified telegram no. 2667, April 11, 1995.

¹⁶⁸ American Embassy-San Jose, unclassified telegram no. 2385, April 17, 1995.

working in rural areas of Brazil.¹⁶⁹ They work on sugar cane, tea, tobacco, and sisal plantations, and extract resin in the forests. Most agricultural child labor is found in Brazil's poorer northeastern states, but child labor is also found in wealthier states such as São Paulo, Minas Gerais, and Parana.¹⁷⁰

In the 1980s, Brazilian agriculture underwent a major transformation. Large-scale plantations became increasingly mechanized and export-oriented, and land became increasingly concentrated in the hands of large agricultural businesses. Both resident workers on plantations and small farmers expelled from their land joined the ranks of migrant and temporary workers that became known as "bóias-frias" or "volantes."¹⁷¹ Because the earnings of many families diminished considerably, they increasingly employed children to bolster family income.¹⁷² Today, child "bóias-frias" and "volantes" comprise a large number of Brazil's child workers.

In Argentina, a small number of children under the age of 14 work with their parents harvesting fruits and vegetables. Many of these child workers are illegal immigrants from Bolivia and Paraguay. Children are also reported to work on plantations that produce tobacco, tea, and soy.¹⁷³

¹⁶⁹ American Embassy-Brasilia, unclassified telegram no. 2904, May 16, 1995.

¹⁷⁰ *News From Brazil*, Number 172, March 30, 1995.

¹⁷¹ Bóias-frias literally means "cold food," referring to temporary and underemployed workers in rural areas who carry their food to work and are forced to eat cold food. "Volantes" means "in movement," and refers to temporary workers who are hired for a single harvest season and must then continue to look for new jobs in other places.

¹⁷² José Cesar Gnaccarini, "O Trabalho Infantil Agrícola na Era da Alta Tecnologia," in Martins, José de Souza (ed.) *Massacre dos Inocentes - A Criança sem Infância no Brasil* (São Paulo: Hucitec, 1993) 81-116.

¹⁷³ International Confederation of Free Trade Unions, *Breaking Down the Walls of Silence* (Brussels: International Confederation of Free Trade Unions, 1985) 16 [*Breaking Down the Wall of Silence*].

Child labor has traditionally been found in rural areas of the Andean region.¹⁷⁴ In rural Ecuador, school attendance tapers off at about 10 years of age as children work as farm laborers to support their household's income. Some children in Ecuador reportedly work on commercial agricultural enterprises that produce bananas and cut flowers.¹⁷⁵

Child labor is also heavily used in Peru's agricultural sector.¹⁷⁶ A 1992 report by the Peruvian Government estimated that 7.5 million children under 15 were employed.¹⁷⁷ One estimate is that child agricultural workers make up approximately 70 percent of the total child work force. There are reports of children who migrate to work on the coast. These children work 10-12 hours per day, 6 days per week, and are paid half the adult wage. They do not attend school.¹⁷⁸

In Mexico, approximately 45 percent of all working minors (defined as ages 12-15) work in agriculture, mostly assisting their families.¹⁷⁹ Children are used to harvest fruits and vegetables in many parts of the country, tobacco in Vera Cruz, and coffee and cheese in

¹⁷⁴ Jocelyn Boyden, "Working Children in Lima, Peru," in William Myers, ed., *Protecting Working Children* (London: Zed Press and UNICEF, 1991) 25.

¹⁷⁵ *Country Reports on Human Rights Practices for 1994* (U.S. Department of State, February 1995) 390 [hereinafter *Country Reports*].

¹⁷⁶ *Country Reports* at 496.

¹⁷⁷ *International Child Labor Hearing*, U.S. Department of Labor (May 5, 1994) (Statement of International Labor Rights Education and Research Fund), *citing* "Peru: Child Workers to Receive Social Security, Right to Unions," InterPress Service, Lima, Peru, December 10, 1992.

¹⁷⁸ "Peru," report by the International Confederation of Free Trade Unions, n.d. [on file].

¹⁷⁹ U.S. Department of Labor and the Mexican Secretariat of Labor and Social Welfare, *A Report on Child Labor in Mexico and the United States* (Washington, D.C.: U.S. Department of Labor and the Mexican Secretariat of Labor and Social Welfare, 1992) 10, 12.

Chiapas.¹⁸⁰ The percentage of the work force under 12 in Mexico's agricultural sector is not known.

a. Coffee

In Guatemala, children as young as 6 or 8 assist their parents during the harvest season. They pick and sort beans, carry sacks of coffee, and sometimes handle fertilizers, herbicides, and insecticides without proper health and safety equipment. Children work from 8 to 12 hours per day, often without legally required benefits such as July and Christmas bonuses, vacations, and severance pay.¹⁸¹

One report in 1990 found that men who traditionally picked coffee on plantations were being fired as permanent employees and replaced by women and children hired at less pay.¹⁸² Women and children reportedly receive about \$0.50 per day, half the wage of adult men. Children begin to pick beans when they are old enough to reach the lower branches of trees and are able to determine which beans to pick. The report mentions that children as young as 6 years old picked and sorted the coffee beans. Boys also routinely carried sacks of beans weighing 75-150 pounds for several miles to the weighing stations. Researchers at one plantation found poor medical facilities, no schools, poor sanitary conditions, and a communal water supply that consisted of a single spigot.¹⁸³

Recent reports, however, suggest that the use of children as full-time employees in Guatemala's coffee industry may be declining, as an increasing number of larger coffee farms are setting up schools, and in some cases, day care facilities.¹⁸⁴

In 1994 the United States imported \$225 million of coffee from Guatemala.

¹⁸⁰ American Embassy-Mexico City, unclassified telegram no. 12769, June 16, 1995; Lee-Wright at 246-248.

¹⁸¹ American Embassy-Guatemala City, unclassified telegram no. 3370, April 26, 1995.

¹⁸² *Children Without Childhood: Violations of Children's Right in Guatemala* (Children's Rights International, 1990) 22 [hereinafter *Children Without Childhood*].

¹⁸³ *Children Without Childhood* at 21.

¹⁸⁴ American Embassy-Guatemala City, unclassified telegram no. 3370, April 26, 1995.

In Honduras, children as young as 6 are reported to work on coffee plantations in the planting and harvesting seasons.¹⁸⁵ During the planting season, which lasts from June-August, children comprise approximately 20 percent of the labor force; in the harvesting season, which runs from November through February, children comprise 30-40 percent of the work force. Approximately 80-90 percent of the children work with their parents and are paid the same wage as adults, 11-12 lempiras per unit (one unit equals one gallon of beans).

In 1994 the United States imported \$20 million of coffee from Honduras.

b. Fruits and Vegetables

In Mexico's Bajío Valley, 200 miles north of Mexico City, children working barefoot in wet mud pick strawberries. Most of the harvesting is done during the summer. Until they are 11, children return to school in September, although they continue to work in the fields in the afternoons.¹⁸⁶ Girls as young as 12 have been observed cutting broccoli, picking snow peas, and picking onions.¹⁸⁷ Children in Mexico have also been observed helping to produce tomatoes and grapes in Baja California, tropical fruits in Tabasco, and various fruits and vegetables in Sinaloa and Sonora.¹⁸⁸

The United States imported over \$1 billion of fruits and vegetables from Mexico in 1994.

In Brazil, farms regularly employ children, especially migrant laborers during peak harvest seasons.¹⁸⁹ In the Tabatinga region in the state of São Paulo, 15 percent of the 70,000 fruit pickers are estimated to be under 14. Some employers hire children because they are

¹⁸⁵ American Embassy-Tegucigalpa, unclassified telegram no. 2267, April 10, 1995.

¹⁸⁶ Lee-Wright at 247.

¹⁸⁷ Lee-Wright at 247-8.

¹⁸⁸ American Embassy-Mexico City, unclassified telegram no. 12769, June 16, 1995; Lee-Wright at 246-248.

¹⁸⁹ American Embassy-Brasilia, unclassified telegram no. 2904, May 16, 1995.

lighter and more able to climb trees without breaking branches.¹⁹⁰ Children usually pick oranges from trees or off the ground and box them for shipment.¹⁹¹ They are paid \$3.00 for working a 14 hour day.¹⁹²

In 1994 the United States imported \$220 million of orange juice from Brazil.

Child labor has been increasing in Honduras' melon and watermelon industries. At least one report estimates that up to 25 percent of the workers are between 6-18.¹⁹³ In 1994 the United States imported \$19 million of melons from Honduras, including \$2 million of watermelons.

c. Grapes

In Petrolina, in the Brazilian state of Pernambuco, children work with their mothers collecting grapes while adult males generally cultivate the land. Most workers in Petrolina are migrants from Brazil's Northeast region seeking to escape the drought. Due to a high unemployment rate, "bóias-frias" -- men, women and children -- compete for agricultural work. Early in the morning, entire families go to farm roads to wait for recruiters known as "gatos," (literally, "cats") who contract them on a daily basis to collect the grapes.

Children earn approximately \$2.00 per day picking grapes from the vines. They also load the grapes into boxes, for which they receive less than \$0.01 per box. They usually fill 100-200 boxes per day.¹⁹⁴

Children also spray pesticides and insecticides, which, according to the Labor Federation of Pernambuco, are used indiscriminately on grape plantations. One study found

¹⁹⁰ *News From Brazil*, Number 172, March 30, 1995.

¹⁹¹ Iolanda Huzak and Jô Azevedo, *Crianças de Fibra*, (Brasilia: International Labor Organization, 1994) 34 [hereinafter Huzak and Azevedo].

¹⁹² Unclassified letter from American Consulate-Sao Paulo to the International Child Labor Study (June 26, 1995) [hereinafter Sao Paulo letter][on file], citing a 1994 study by the Central Unico dos Trabalhadores ("CUT" - National Trade Union Congress).

¹⁹³ American Embassy-Tegucigalpa, unclassified telegram no. 2267, April 10, 1995.

¹⁹⁴ Huzak and Azevedo at 61.

that 93 percent of workers wear no form of protective clothing during spraying. By the end of day, children's clothes and hands turn a greenish color as a result of exposure to the chemicals.¹⁹⁵

In 1994 the United States imported \$125,000 of grapes, \$5 million of grape juice, and \$7 million of wine from Brazil.

d. Resin

Many children work alongside their parents in Brazil's resin industry,¹⁹⁶ which is centered in São Paulo state. Adult workers are usually hired on a temporary basis in the warmer months, when the resin is extracted. It is common for workers to bring the entire family to boost production. Most companies in the industry, in violation of the Brazilian constitution, do not register their workers. Unregistered workers are unable to receive social benefits such as social security, paid vacations, sick leave, and workman's compensation.

Children perform the same work as adults. They cut niches into trees and then, every two weeks, apply a mixture of sulfuric acid, water, burnt oil, and rice to the niches. When the resin is ready to be sapped, they place a small plastic sack to gather the liquid resin, and then collect the juice in a "tambor," or bin. Each "tambor" holds 200 kilograms. The tambors are sold for approximately \$3.00.¹⁹⁷

Because they do not wear gloves, children's hands often become sticky with glue from the resin. The glue is usually removed by washing their hands with diesel oil. Children in the fields are exposed to poisonous snakes. They also suffer from pneumonia. Living conditions are harsh. There are no schools for children to attend. Landowners provide meals for the workers, but the cost of the food is deducted from earnings. Oftentimes the cost of food exceeds total earnings. As a result, many families receive no pay at the end of the month.

¹⁹⁵ Huzak and Azevedo at 59-61.

¹⁹⁶ Resin is used to make products such as paper, ink, gum, and soap.

¹⁹⁷ Huzak and Azevedo at 111.

In 1994 the United States imported \$600,000 of resin and gum resin from Brazil.

e. Sisal

Children work in Brazil's sisal industry, in the state of Bahia. One report suggests that approximately 25 percent of the workers in the industry are children and adolescents.¹⁹⁸ In the municipality of Santa Cruz, in Bahia, more than 9,000 children work with their families to cut and process sisal.¹⁹⁹ Children as young as 4 years old work to help support their parents. They usually drop out of school early to support their families and continue to work on plantations their entire lives. Many children also suffer from asthma, which can result from contact with the fibers. Numerous injuries and accidents result from the use of old machinery, and a lack of safety precautions.²⁰⁰

In 1994 the United States imported \$9,000 of sisal from Brazil.

f. Sugar

Child labor is used on sugar cane plantations throughout Brazil. The principal sugar cane producing states in which child labor is used are the Northeastern states of Pernambuco, Alagoas, Ceara, and Bahia; Rio de Janeiro state, in the Southeastern Region; and the state of Mato Grosso do Sul in Brazil's Center-West.²⁰¹

Sugar cane cutting is extremely dangerous work; sugar cane workers have an average working life of 12 years due to incapacitating injuries.²⁰² Children are injured almost routinely. A survey in the Zona da Mata found that 56.7 percent of child and adolescent respondents had suffered some type of occupational accident. Knife wounds to the arms,

¹⁹⁸ Huzak and Azevedo at 139.

¹⁹⁹ American Embassy-Brasilia, unclassified telegram no. 2904, May 16, 1995.

²⁰⁰ Huzak and Azevedo at 132, 135, 139, and 145.

²⁰¹ Huzak and Azevedo at 12.

²⁰² Irandi Pereira and Maria do Carmo Brant Carvalho, *Trabalho do Adolescente: Mitos e Dilemas* (São Paulo: Pontifícia Universidade Católica de São Paulo, 1993) 57 [hereinafter Pereira and Carvalho].

hands, and legs, accounted for over 85 percent of the injuries.²⁰³ Repeated injuries to the limbs eventually causes irreparable damage to workers' ability to move their arms, and usually ends their cane-cutting careers at a young age.²⁰⁴

In addition to accidents, children also suffer from respiratory, dermatological, and digestive problems; back, leg, and arm pain; headaches from prolonged exposure to the sun; conjunctivitis; and mental and physical stress from having to meet high production quotas.²⁰⁵

The Zona da Mata, a coastal region in Pernambuco state, is Brazil's principal sugar cane growing and processing area.²⁰⁶ Most of the sugar cane produced is grown on large plantations that own both the sugar cane fields and the factories that process the cane and extract the sugar.

An estimated 60,000 children and adolescents, aged 10-17, work on plantations in the region, accounting for approximately 25 percent of the total number of cane workers in the Zona da Mata.²⁰⁷ Many of the cane workers are seasonal workers.

Most of the children in the Zona da Mata enter the labor market at young ages. One survey found that over 90 percent of the working children and adolescents, and nearly 85 percent of the heads of households, had begun working between the ages of 7 and 13.²⁰⁸ A lack of time, a lack of available schools near the plantations, and a perception that what is taught in the schools is irrelevant, combine to make school attendance impossible.

²⁰³ Tereza Cristina Wanderley Corrêa de Araujo, Nanci Lourenço, and Álvaro Antônio Vieira de Mello, *Trabalhadores Invisíveis: Crianças e Adolescentes dos Canaviais de Pernambuco*. (Recife, Pernambuco: Centro Josué de Castro, 1994) 38 [hereinafter Araujo, Lourenço, and Vieira de Mello].

²⁰⁴ Pereira and Carvalho at 57.

²⁰⁵ Araujo, Lourenço, and Vieira de Mello at 40 and *Pesquisa Sobre as Atividades Laborativas de Crianças e Adolescentes no Estado do Rio de Janeiro* (Rio de Janeiro: Centro de Articulação de Populações Marginalizadas [CEAP], 1993) 75-76.

²⁰⁶ Araujo, Lourenço, and Vieira de Mello at 8.

²⁰⁷ Araujo, Lourenço, and Vieira de Mello at 10.

²⁰⁸ Araujo, Lourenço, and Vieira de Mello at 29.

The majority of the children are not officially registered with the plantations; one study places the percentage of unregistered children at 90 percent, unregistered adults at 40 percent.²⁰⁹ The children are paid much less than adults.²¹⁰ Over 40 percent of the children work more than 40 hours per week. None of these children receive any formal training; they usually acquire their skills from family members.²¹¹ Children must often wake up at 4:00 a.m. and go to work without eating breakfast;²¹² they carry candles with them so they can work in the pre-dawn hours.²¹³ Employers generally do not provide the children with boots or shoes to protect them and most children instead wear either rubber sandals or work barefoot.²¹⁴

In Alagoas, Brazil's second largest sugar producing state, an estimated 50,000 of the 400,000 sugar cane workers on plantations are children aged 6-13.²¹⁵ Most of the children assist their parents.

Of the 20,000 sugar cane workers in Bahia state's Recôncavo Region, 2,000 are reported to be children. The children usually work from 5:00 a.m. to 6:00 p.m. They do not wear shoes, hats, or other appropriate clothing to protect them from either objects or animals, or the hot sun. Most workers are hired through verbal contracts negotiated by "gatos" hired by plantation owners to supply them with the necessary number of workers.²¹⁶ Most of the children work with their families. A worker must cut approximately 4 tons of sugar cane

²⁰⁹ Araujo, Lourenço, and Vieira de Mello at 31-32.

²¹⁰ Cícero Belmar, "Menores São Explorados nos Canaviais," *Jornal do Brasil*, September 21, 1991.

²¹¹ Araujo, Lourenço, and Vieira de Mello at 37.

²¹² Cícero Belmar, "Menores São Explorados nos Canaviais," *Jornal do Brasil*, September 21, 1991.

²¹³ Huzak and Azevedo at 18.

²¹⁴ Araujo, Lourenço, and Vieira de Mello at 37.

²¹⁵ Ari Cipola, "Crianças Trabalham Ilegalmente em Canaviais," *Folha de São Paulo*, October 21, 1991.

²¹⁶ Iúri Totti, *Jornal do Brasil*, December 28, 1990.

daily to receive the minimum wage at the end of the month;²¹⁷ to meet this goal, support from other family members is required. Payment is typically made to the head of the household.

In the state of Ceará, children work both in the fields and inside the cane processing factories. In the fields, where the temperature is often over 40°C (104°F), children cut and sort cane, transport cane to the processing plants, and carry the unused pulp to the fields where it is used as feed for cows. Those working inside the processing factories feed cane into the machines that extract the sugar and carry the pulp outside to dry. Temperatures inside the factories can reach 60° C (140°F). The children are paid the equivalent of \$3.00 per week.²¹⁸

In the municipality of Campos, in the state of Rio de Janeiro, there are an estimated 5,000-6,000 children aged 7-14 working in the sugar industry (approximately 4,000 boys and 2,000 girls).²¹⁹ Most of the work force is seasonal and approximately 60 percent of the work force is either unemployed or underemployed between harvests. In contrast to workers in the Zona de Mata or Alagoas who live on the plantations, the migrants who work in Campos live in shanty-towns on the roads or in neighborhoods near the plantation and are brought to work by trucks daily.

In the state of Mato Grosso do Sul, there are reports of one plantation employing 600 children between the ages of 9 and 16.²²⁰ Children cut and transport cane, and collect cane that has fallen off trucks. They typically work from 6:00 a.m. to 5:00 p.m. These children receive no paid vacation, time off for illness, or overtime. They are not included in the national social security system. No on-site medical assistance is provided, and when

²¹⁷ Brazil's minimum wage in July 1995 was 100 Real (approximately \$100) per month.

²¹⁸ Huzak and Azevedo at 12.

²¹⁹ *Análise de Situações e Recomendações - Agroindústria Sucro Alcooleira de Campos - RJ* (Brasília, D.F.: Forum Nacional de Prevenção e Erradicação do Trabalho Infantil, 1995) 6.

²²⁰ *Versão Preliminar da Análise de Situação do Trabalho Indígena nas Usinas de Alcool de Mato Grosso do Sul* (Brasília: Forum Nacional de Prevenção e Erradicação do Trabalho Infantil, 1995) 1-2 [hereinafter Forum Nacional]. Children also were found working at 8 distilleries in the region that process the sugar cane and turn it into alcohol.

children are ill they are sent back to their villages.²²¹

In 1994, labor inspectors found 500 workers, including children, working in "the worst conditions of food, lodging and labor" in factories making distilled alcohol from cut sugar in Mato Grosso do Sul. All of the workers were brought by recruiting agents from other states. The workers were supervised by armed guards, and were only allowed to leave the factory compound on their payday.²²²

In 1994 the United States imported \$42 million of cane sugar from Brazil.

There are some reports that children in Guatemala cut cane along with their fathers. Some sources state that the children use small machetes to help trim the cane after it is cut. Children also are reported to collect loose stalks which have fallen off loaders and trucks.²²³

In 1994 the United States imported \$51 million of cane sugar from Guatemala.

g. Tea

Children are reported to work in the tea industry in rural area of Registro, São Paulo state, in Brazil. Workers on tea plantations receive parcels of land from the plantation management "for care" in exchange for 20 percent of production. The plantation management provides the workers with meals, as well as pesticides; the value of these goods is deducted from the workers' pay. These arrangements have no official status: there is no formal contract and the workers are not formally registered in any manner.²²⁴

Tea production can be dangerous. Children are exposed to pesticides. They are not supplied with clothing to protect them from the sun or snakes that are found in the fields.

²²¹ Forum Nacional at 1-2.

²²² *Conflitos no Campo 1994* (Brazil: Brazilian Land Pastoral Commission, 1995) 31. See also American Consulate-Sao Paulo, unclassified telegram no. 1872, June 27, 1995.

²²³ American Embassy-Guatemala, unclassified telegram no. 3370, April 26, 1995.

²²⁴ Huzak and Azevedo at 38 and 43.

Because no schools are located near the plantations, children receive no formal education.²²⁵

In 1994 the United States imported \$4 million of tea from Brazil.

h. Tobacco

Children in Brazil are reported to work in the tobacco industry in Santa Cruz do Sul, a municipality in Rio Grande do Sul Province known as the "national capital of tobacco." Many of the young workers are children of migrant workers, or "bóias-frias." They help their families increase daily production, and thus earnings. Children cut and sort tobacco leaves and spray pesticides and other chemicals on the tobacco plants. They work under the hot sun, and frequently suffer back pain.²²⁶ One survey of local school children found that a majority had worked in the tobacco fields.²²⁷

U.S. imports of tobacco from Brazil in 1994 totalled \$146 million.

i. Rubber

Children on rubber plantations in western Brazil are reported to work along with their parents under conditions of servitude. In 1992, a report on families on a rubber plantation in the western state of Acre found that boys started tapping rubber at an average age of nine.²²⁸

In remote parts of Acre, rubber tappers are required to pay "rent-in-kind" for use of rubber trails -- generally between 150 and 225 pounds of rubber each year or 20 per cent of

²²⁵ Huzak and Azevedo at 37, 45.

²²⁶ Huzak and Azevedo at 62.

²²⁷ Huzak and Azevedo at 65, 67-68.

²²⁸ Alison Sutton, *Slavery in Brazil* (London: Anti-Slavery International, 1994) 84 [hereinafter Sutton].

their annual production.²²⁹ In addition, they are required to deal exclusively with the plantation boss at the estate warehouse in order to sell the rubber and purchase provisions.²³⁰ This system leads to abuses, as the boss fixes all prices arbitrarily. Some rubber tappers find themselves in perpetual debt. Those who do not comply with these arrangements are sometimes threatened or thrown off the plantation along with their families.²³¹

In one estate in Acre, families were forced to sign a contract with the plantation owner which forbid them from trading with anyone else. They were not allowed access to the calculations made by the owner to their accounts. Very few families managed to make any profit by the end of the year. Nor were they permitted to raise any animals to supplement their income. Their living conditions were bleak:

*The houses were extremely modest, mostly without furniture, and families ate their meals on the floor. The most a family might expect to buy after one year's work would be a new hammock and a few yards of material. Their clothes were full of holes, but they could not afford to replace them.*²³²

In May 1989, the Brazilian Federal Attorney General's Office initiated an investigation of labor conditions in the western state of Acre. One of its stated objectives was to eradicate a labor system which maintains rubber tappers in conditions which can be characterized under the Brazilian penal code as "analogous to slavery."²³³

Brazilian exports of natural rubber to the United States were \$600,000 in 1994.

j. Other

²²⁹ Sutton at 82. *See also* Eugênio José Guilherme de Aragão, *Is the Brazilian Barracão-Regime Consistent with International Safeguards Against Slavery?*, Research Essay in International Human Rights Law, University of Essex (1994) 6 [on file] [hereinafter Guilherme de Aragão].

²³⁰ Guilherme de Aragão at 6. In recent years rubber tappers have resisted such a system; but it persists in remote areas. *See also* Sutton at 77.

²³¹ Guilherme de Aragão at 6-7; Sutton at 84-86.

²³² Sutton at 83.

²³³ Sutton at 75.

Children in Guatemala are also reported to work on farms that produce cardamon seeds, macadamia nuts, and tea.²³⁴ In 1994 the United States imported \$1 million of cardamom seeds; \$3 million of macadamia nuts; and \$30,000 of tea from Guatemala.

²³⁴ American Embassy-Guatemala, unclassified telegram no. 3370, April 26, 1995.

III. Forced and Bonded Child Labor

A. Introduction

1. Overview

"Slavery is not dead."¹ It is found in the practice of forced or bonded child labor, which is considered to be the most exploitative and egregious form of child labor.²

There are millions of children whose labor can be considered forced, not only because they are too young to choose to work, but also because they are, in fact, actively coerced into working.³ These include child bonded laborers -- children whose labor is pledged by parents as payment or collateral on a debt -- as well as children who are kidnapped or otherwise lured away from their families and imprisoned in sweatshops or brothels. In addition, millions of children around the world work unseen in domestic service -- given or sold at a very early age to another family.

Forced child laborers work in conditions "that have no resemblance to a free employment relationship."⁴ They receive little or no pay and have no control over their daily lives.⁵ They are often forced to work beyond their physical capacity and under conditions that seriously threaten their health, safety and development. In many cases their most basic rights, such as freedom of movement and expression, are suppressed. They are subject to

¹ *Children in Bondage: A Call for Action* (Geneva: International Labor Organization, 1992) 3 [hereinafter *Children in Bondage: A Call for Action*].

² *Children in Bondage: A Call for Action* at 3-4. See also Neera Burra, *Born to Work: Child Labor in India* (New Delhi: Oxford University Press, 1995) 15 [hereinafter *Born to Work*].

³ *World Labor Report* (Geneva: International Labor Organization, 1993) 17 [hereinafter *World Labor Report 1993*].

⁴ *Children in Bondage: A Call for Action* at 4.

⁵ *World Labor Report 1993* at 17.

physical and verbal abuse. Even in cases where they are not physically confined to their workplace, their situation may be so emotionally traumatizing and isolating that once drawn into forced labor they are unable to conceive of a way to escape.

This chapter reviews some well-known situations of forced child labor, including bonded labor in manufacturing and mining sectors.⁶ In order to provide a more complete picture of these practices as they occur throughout the world, situations of forced child labor in non-export production, including "services" such as the sex industry and domestic services, will also be described.

Forms of forced child labor are found in many regions of the world. It is generally assumed that forced and bonded child labor is most widespread in Asia, particularly in the Indian subcontinent, because most reports are from that region.⁷ The South Asian Coalition on Child Servitude estimates that there are approximately ten million child laborers in "chronic bondage" in India alone.⁸ Forced child labor is also found in Latin America and Africa, although less documentation is available on its occurrence in these regions. While reliable statistics on forced and bonded child labor are lacking, the ILO estimates that the number of child victims is increasing in some sectors and industries despite national and international laws prohibiting the practice.⁹

Forced child labor is found primarily in informal, unregulated or illegal sectors of the

⁶ Some of these situations were covered in *By the Sweat and Toil of Children (Volume I): The Use of Child Labor in U.S. Manufactured and Mined Imports* (1994). This report expands on those examples and provides additional information. Some cases of forced and bonded child labor in the agricultural and fishing sectors are discussed in Section III of this report -- Child Labor in Commercial Agriculture. See discussion of sugar cane plantations in Thailand (p. 52), the fishing industries of Indonesia, Sri Lanka, the Philippines, India, and Pakistan (pp. 55-60), the rattan industry in the Philippines (p. 60), and the rubber industry in Brazil (p. 74).

⁷ Alec Fyfe, *Child Labor* (Polity Press, Oxford, 1989) 75 [hereinafter Fyfe]. See also *Children in Bondage: A Call for Action* at i.

⁸ *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of South Asian Coalition on Child Servitude (SACCS), India Chapter) [on file] [hereinafter 1994 Testimony of SACCS].

⁹ *Children in Bondage: A Call for Action* at 4 .

economy. It is most common among the economically vulnerable and least educated members of society such as minority ethnic or religious groups or the lowest classes or castes. Children are especially vulnerable to exploitation because their lack of maturity makes them easy to deceive and ensures that they have little, if any, knowledge of their rights. As the London-based human rights organization Anti-Slavery International (ASI) states,

*It is an axiom that the weakest and most marginalized groups of people are those most vulnerable to exploitation. Within the context of slavery, indigenous peoples along with women and children are amongst the groups most affected.*¹⁰

2. Definitions

There are no specific international standards on "forced child labor." This study uses ILO and United Nations standards on minimum age for employment, forced labor, the economic exploitation of children, and slavery-like practices.

Forced labor is defined by *ILO Convention 29 on Forced or Compulsory Labor* as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."¹¹ *Convention 29* calls upon ratifying states to "suppress the use of forced or compulsory labor in all its forms."

The *United Nations 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery* defines slavery to include: debt bondage, serfdom and any practice whereby a person under 18 years of age is delivered by his parent/guardian, whether for reward or not, with a view to the exploitation of the young person or his labor.

¹⁰ "Focus: Reserves of Cheap Labor: Slavery and Indigenous Peoples," in *Anti-Slavery International Newsletter*, issue no. 25 (June 1994) 4. In India, for example, a study conducted by the Indian Social Institute indicated that 90 percent of bonded laborers come from the marginalized scheduled castes and tribes. See Walter Fernandes, "The 'no-childhood' Children," *Jivan* (September 1986) 4.

¹¹ *ILO Convention 29 on Forced or Compulsory Labor in International Labor Conventions and Recommendations: 1919-1991, vol. 1* (Geneva: International Labor Organization, 1992) 115.

The 1956 *Convention* defines debt bondage as:

*the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.*¹²

Most commonly, the person under control is a child, whose services are sometimes pledged at a very young age.¹³

The *United Nations Convention on the Rights of the Child* states that children must be protected from all forms of economic exploitation. This includes 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."¹⁴ The Convention also calls for the prevention of the use of children in illicit production and trafficking of drugs; protection against all forms of sexual exploitation; and prevention against abduction, sale of or traffic in children for any purpose.¹⁵

3. Situations of forced child labor

Examples of forced child labor are examined below. They include debt bondage, kidnapping, trafficking, and sale of children, and domestic servitude.

a. Debt bondage

¹² *Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, adopted September 7, 1956, entered into force April 30 1957, 266 U.N.T.S. 3.*

¹³ Roger Sawyer, *Children Enslaved* (London: Routledge, 1988) 47 [hereinafter Sawyer].

¹⁴ *U.N. Convention on the Rights of the Child, adopted November 20, 1989, entered into force September 2, 1990, G.A. Res. 44/25, 44 UN GAOR, Supp. (No. 49), U.N. Doc. A/44/49, article 32 [hereinafter *Convention on the Rights of the Child*].*

¹⁵ *Convention on the Rights of the Child*, articles 33-35. Other U.N. instruments dealing with slavery-related issues are the *Slavery Convention of 1926*, the *Universal Declaration of Human Rights (1948)* and the *International Covenant on Civil and Political Rights (1966)*.

Debt bondage, found predominantly in South Asia and Latin America,¹⁶ occurs when, in return for a money advance or credit, a person, having no other security to offer, pledges his/her labor or that of a child for an indefinite period of time. In many cases a parent takes a loan aware that the labor of his entire family will be offered in return. In other cases the child alone is subjected to bondage by parents or a guardian who pledge the child's labor in exchange for a loan:

*Children become a commodity in this process. Parents have absolute power over their children, making it possible for children to be pledged chattel-like to pay off debts.*¹⁷

Technically, bonded laborers can end their state of servitude once the debt is repaid.¹⁸ But the fact of the matter is that this rarely occurs. Since debtors are often illiterate and lack basic math skills, they are easy prey for deception by moneylenders.¹⁹ A combination of low wages and usurious interest rates make it impossible to repay the initial debt. In many cases the debt increases because the employer deducts payment for equipment and tools or charges fines for faulty work.²⁰ Sometimes the labor pledged is used to repay the interest on the loan but not the principal.²¹

Debt bondage is commonly found in rural areas where traditional class or caste structures and semi-feudalistic patterns endure. Landless or near-landless households, as well as migrant laborers, are particularly vulnerable to debt bondage since they have few resources with which to meet daily needs or unexpected expenses. There are no alternative sources of credit available. Sometimes families take loans they cannot repay in order to fund ceremonial events such as weddings and funerals.

¹⁶ *World Labor Report* 1993 at 11.

¹⁷ Fyfe at 76.

¹⁸ Fyfe at 75.

¹⁹ Fyfe at 75.

²⁰ *World Labor Report* 1993 at 11.

²¹ Fyfe at 76.

In cases of "intergenerational" bondage, debts are passed down from parent to child.²² Once a parent is no longer able to work, the debt is assumed by the child. This occurs particularly in countries with longstanding feudal agricultural societies.

Other contractual-type arrangements exist that can eventually lead to debt bondage. In agriculture or mining, persons may be recruited and transported long distances to work. In most cases the actual conditions of employment are not written. Where written contracts exist, the illiterate children and families are unable to verify their contents. Once they arrive at the work site, often in remote areas from which escape is impossible, they find the conditions to be much worse than initially described.

These situations lead to bondage when transport costs and living expenses are deducted from pay. Families or children are required to buy food and medicine and other supplies at inflated prices from a concessionaire or company store. When workers owe more than they have received in pay, they find themselves ensnared in debt bondage. Unable to pay for their return trip home, they are forced to stay.

b. Trafficking in Children

The abduction of children leads to some of the most exploitative and abusive situations of child bondage. In some cases, children are kidnapped, taken far away from home and sold into prostitution. In other cases abducted children are sold to work in small-scale industries. There are also reports of young boys from South Asia trafficked and sold to be used as camel jockeys in the Gulf States.

Systems of child trafficking include various middlemen, recruiting agents and conveying agents. There are networks of intermediaries at every level -- local, national and international.²³

c. Sale of children and fraudulent recruitment

Many children are sold by their parents or lured away from their homes by recruiters. Poor families are commonly seduced by false promises of middlemen such as recruiting

²² *Children in Bondage: Slaves of the Subcontinent* (London: Anti-Slavery International, 1991) 24 [hereinafter *Children in Bondage: Slaves of the Subcontinent*].

²³ *Children in Bondage: Slaves of the Subcontinent* at 27 citing Michel Bonnet.

agents or contractors.²⁴ The recruiters promise well-paying jobs and a brighter future for the children, often misrepresenting the type of work the child will perform.

Recruiters or contractors are often associated with a particular employer or organized agency, or may work independently. Sometimes village members or neighbors earn money by recruiting children for work. They make their rounds in villages and slums, "insinuating themselves as friends and helpers of the poorest families, understanding their plight and offering to help them with their financial problems."²⁵ The child is then taken away by bus, truck or train to be sold to a master. In some cases, families are never reunited.

Parents are often given an advance by the recruiter to pay for travel and food. The child is then confined to the workplace until he/she is able to pay off the debt owed from the advance. In many countries children are forced into the sex industry because their parents have sold them to recruiters, or because recruiters have lured the children away with promises of an exciting life in the big city.

The selling of children by their parents has reportedly been on the increase in Sudan due to the ongoing civil war. Boys between 7 and 12 years old are sold by destitute families to merchants for approximately \$70 each. Once sold, children have little chance of being reunited with their parents.²⁶

d. Domestic Servants

The use of children as domestic servants is widespread and occurs in many countries in Asia, as well as in Latin America, Africa, and the Middle East. Although no reliable global or national figures exist on the number of children engaged in domestic employment, the figure is undoubtedly in the millions worldwide, and may be on the increase.²⁷

²⁴ *Children in Bondage: A Call for Action* at 7.

²⁵ *Children in Bondage: Slaves of the Subcontinent* at 27.

²⁶ *World Labor Report 1993* at 11.

²⁷ *Children at Work: A Report Based on the ILO and UNICEF Regional Training Workshop on Programmatic and Replication Issues Related to Child Labour and Street Children* (Bangkok: UNICEF, 1994) 115 [hereinafter *Children at Work*].

Child domestic servants -- usually young girls -- work as "virtual slaves."²⁸ They are given or sold to families or distant relatives to serve as household help. They generally work extended hours, and are sometimes treated harshly by their employer, beaten or sexually abused. They are often not paid. Strangers to the city or town where they work and isolated from their parents, the children are powerless to change their position.²⁹

B. Manufacturing and Mining

In the manufacturing and mining sectors, forced child labor occurs mainly in small-scale, decentralized operations. Larger manufacturers often subcontract work out to small production units that are not regulated by child labor laws. The victims of forced child labor in the manufacturing and mining sectors are most often marginalized groups such as rural poor and migrant workers.

It is common for children to be lured away from home by recruiters who convince parents that their children will be placed in promising, well-paying jobs. Often recruiters give parents an advance, which the children are then required to repay with their labor.³⁰ In other cases, children are bonded along with their entire family. Those children who are separated from their families, often by long distances, usually suffer the most abusive conditions.

1. Asia

²⁸ A. Boudhiba, *Exploitation of Child Labour: Final Report of the Special Rapporteur of the U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities* (Geneva: 1982) 46.

²⁹ Fyfe at 15.

³⁰ In India, where advances are fairly common, the sum loaned to parents by employers or recruiters usually ranges from \$5 to \$50. *See India-- Bonded Labour: 20 Years after its Abolition*, Anti-Slavery International submissions to the U.N. Working Group on Contemporary Forms of Slavery, Twentieth Session, April 1995 [on file].

a. Hand-made carpets

Children ranging in age from 5 to 15 are forced to work under conditions of debt bondage in the carpet industries of India,³¹ Pakistan,³² and Nepal.³³ In April 1994, the South Asian Coalition on Child Servitude (SACCS) estimated that there are a total of one million children in servitude engaged in the carpet industry in the Indian Subcontinent -- 500,000 in Pakistan, 300,000 in India and 200,000 in Nepal.³⁴ There is evidence, however, which is discussed below, that there has been a significant reduction in the number of children in the industry in Nepal since early 1994.

The working environment to which children in the carpet industry are subjected is detrimental to their physical health and development. They work in cramped positions for

³¹ India has ratified both ILO Convention No. 29 Concerning Forced Labor, and the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. According to the U.S. Department of State *Country Reports on Human Rights Practices for 1994*, the Indian Constitution prohibits forced labor, and legislation passed in 1976 specifically bans the practice of "bonded labor." A Supreme Court decision defined "forced labor" as work at less than the minimum wage. *Country Reports on Human Rights Practices for 1994* (U.S. Department of State, February 1995) 1232 [hereinafter *Country Reports*].

³² Pakistan has ratified both ILO Convention No. 29 Concerning Forced Labor, and the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. According to the U.S. Department of State *Country Reports on Human Rights Practices for 1994*, The Constitution and the law prohibit forced labor. The Bonded Labor System (Abolition) Act of 1992 outlawed bonded labor. Regulations implementing the Act are yet to be enacted. *Country Reports* at 1258.

³³ Nepal has not ratified ILO Convention No. 29 Concerning Forced Labor; it has ratified the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. According to the U.S. Department of State *Country Reports on Human Rights Practices for 1994*, the Constitution prohibits traffic in human beings, slavery, serfdom, or forced labor of any form. *Country Reports* at 1244.

³⁴ 1994 Testimony of SACCS. Another report concludes that 15 percent of an estimated 100,000 children working in the carpet industry of Uttar Pradesh, where most Indian carpets are produced, are in debt bondage. See *A Pattern of Slavery: India's Carpet Boys* (London: Anti-Slavery Society, 1988) 3 [hereinafter *A Pattern of Slavery: India's Carpet Boys*].

long periods of time in poorly-ventilated sheds filled with wool fluff and dust particles. Constant contact with the fluff causes skin ailments such as scabies as well as respiratory problems. Children develop swelling of lower limbs, pain in the joints and spine deformities from crouching for long periods of time as they work on the looms. Poor lighting conditions weaken their eyesight; prolonged contact with chemical dyes and the use of sharp knives during weaving damage their fingers. Many of the children are severely ill by the time they become adults.³⁵

The Indian carpet-weaving industry is concentrated in the "Carpet Belt" of Uttar Pradesh in north Central India,³⁶ which also accounts for over 85 percent of Indian carpet exports.³⁷ Bonded child labor is thought to be widely utilized in Uttar Pradesh. In 1991, a fact-finding committee appointed by an Order of the Supreme Court of India found a large number of children, as young as six to nine years old, working as bonded laborers on carpet-weaving looms in Uttar Pradesh.³⁸

The Indian carpet industry is widely dispersed over a large geographical area.³⁹ The public scrutiny that the industry has received in recent years has caused it increasingly to

³⁵ See *Discover the Working Child: The Situation of Child Labour in Pakistan* 1990 (Government of Pakistan and UNICEF, 1991) 19 [hereinafter *Discover the Working Child*]; *Child Labour in the Carpet Weaving Industry in Punjab* (Government of Pakistan and UNICEF, 1992) 15 [hereinafter UNICEF Punjab Report]; B.N. Juyal, *Child Labour and Exploitation in the Carpet Industry: a Mirzapur-Bhadohi Case Study* (New Delhi: Indian Social Institute, 1987) 44 [hereinafter 1987 Juyal]; S. Vijayagopalan, *Child Labor in the Carpet Industry: A Status Report* (New Delhi: National Council of Applied Economic Research (NCAER), February 1993) 56-57 [hereinafter NCAER Report].

³⁶ Pharis Harvey and Lauren Riggan, *Trading Away the Future: Child Labor in India's Export Industries* (International Labor Rights Education and Research Fund, 1994) 53 [hereinafter ILRERF Report].

³⁷ B.N. Juyal, *Child Labour in the Carpet Industry in Mirzapur-Bhadohi* (New Delhi: International Labor Organization, 1993) 13 [hereinafter Juyal 1993]. Carpets are also produced in the Jammu-Kashmir region and Rajasthan, but relatively little research has been done on the industry in these regions.

³⁸ *Children in Bondage: A Call for Action* at 13.

³⁹ Juyal 1993 at 1.

scatter the loom sheds to more rural locations.⁴⁰ Small production units typically employing less than ten people make up an estimated 95 percent of Uttar Pradesh's production. These small units are exempt from labor laws applying to registered factories in the formal sector.⁴¹

Bonded children in the carpet industry are often recruited from the neighboring states of Bihar and Madhya Pradesh by recruiting agents or organized gangs.⁴² Their parents, low-caste, poor peasants or landless laborers, are given a cash advance ranging from 600 to 2,800 rupees (approximately \$20.00 to \$90.00).⁴³ This practice is generally institutionalized in cases where children are procured by recruiters.⁴⁴ Those children whose parents take advances are required to continue working for the same employer until the advance has been repaid. The amount of time it takes to repay the loan can extend up to five or six years, during which time the child remains bonded.⁴⁵

In some cases employers take advantage of the poverty of the family and offer large loans to parents against their children's future labor knowing that the parents will never be able to repay the debt.⁴⁶ There are also numerous reports of children being abducted by strangers who lure them away with promises of movies, candy, or other sundries and sell

⁴⁰ ILRERF Report at 53-54; Juyal 1993 at 2.

⁴¹ ILRERF at 54; Anti-Slavery Society, "Child Bonded Labor," in *Seminar on the Implementation of the Convention on the Rights of the Child* (International Commission of Jurists and Defense for Children International, September 24-28, 1990) 11 [hereinafter *Seminar on the Implementation of the Convention on the Rights of the Child*].

⁴² Findings of Indian Supreme Court appointed fact-finding committee *cited in Children in Bondage: A Call for Action* at 13. *See also* 1987 Juyal at 21-22 ; Juyal 1993 at 34; Shamshad Khan, *Migrant Child Labour in Carpet Industry of Mirzapur-Bhadohi Belt* (Mirzapur: Centre for Rural Education and Development Action, n.d.) 1 [on file].

⁴³ American Embassy-New Delhi, unclassified telegram no. 05146, April 18, 1995; Edward A. Gargan, "Bound to Looms by Poverty and Fear, Boys in India Makes a Few Men Rich," *New York Times* (July 9, 1992) [hereinafter Gargan article]. *See also* NCAER report at 41.

⁴⁴ Juyal 1993 at 7.

⁴⁵ Juyal 1993 at 64.

⁴⁶ *Born to Work* at 18.

them to loomholders.⁴⁷ Sometimes attempts by parents to take back their children are blocked by force.

The worst conditions occur in production units that rely on migrant child laborers who have been recruited or lured from their villages. SACCS estimates that over 70 percent of the children working in the carpet industry are migrant children from neighboring states, the majority of whom receive no wages.⁴⁸ The majority of migrant child carpet weavers are not given an opportunity to visit their homes for long periods of time after they begin working in the carpet industry.⁴⁹ One report states that "(I)t is not uncommon for these children to leave their villages never to be heard from again."⁵⁰

Once the children arrive at the loom shed, any advance paid to their parents is deducted from the children's already low wages. The children are penalized with deductions from pay for any mistakes they make. In addition, the cost of meals, often inadequate and of poor quality, is usually deducted from their pay.⁵¹ Some children are paid only in food. This category includes young children who are deemed apprentices for a period that can last from one to five years, during which he or she receives no wage.⁵²

Bonded carpet children are often kept under close watch and not allowed to go outside or talk to people in the streets.⁵³ They work up to 20 hours per day, seven days a week, and often sleep, eat and work in the same small, damp room.⁵⁴ They are often locked in at

⁴⁷ *Born to Work* at 19. See also ILRERF Report at 57-58.

⁴⁸ 1994 Testimony of SACCS.

⁴⁹ Juyal 1993 at 66.

⁵⁰ ILRERF Report at 57.

⁵¹ ILRERF Report at 57. See also 1987 Juyal at 40; Juyal 1993 at 64.

⁵² 1987 Juyal at 35-36.

⁵³ Findings of Indian Supreme Court appointed fact-finding committee cited in *Children in Bondage: A Call for Action* at 13.

⁵⁴ 1987 Juyal at 40-41; NCAER Report at 56.

night.⁵⁵ When there is a rush order, the workers may be required to work through the night.⁵⁶ Those who try to escape or make mistakes are often beaten, deprived of food or tortured. Cases have been documented where children trying to escape were hung from trees, chained to looms, shot, or branded with a hot iron.⁵⁷ One former bonded carpet worker stated in an interview that his master had thrown acid into his eyes when he wept out of homesickness.⁵⁸ Girl carpet workers are sometimes sexually abused.⁵⁹

A rescue operation in 1995 by the Bonded Labour Liberation Front secured the release of 17 bonded child carpet weavers in the Allahabad district of Uttar Pradesh revealed oppressive conditions. The released children ranged in age from 8 to 14 and were dressed in rags. They worked for some 20 hours every day beginning at 3 a.m. In addition to weaving carpets, they were expected to work in their masters' fields and in and around their homes. They were beaten with sticks and iron rods and not allowed to see their parents. Most of the children could not say how long they had been held captive, but some said they had been working for three years.⁶⁰

Migrant children are also recruited from Nepal, often via Kathmandu carpet factories,

⁵⁵ Gargan article.

⁵⁶ 1987 Juyal at 42.

⁵⁷ *Children in Bondage: A Call for Action* at 13; *Born to Work* at 20; 1987 Juyal at 43; ILRERF Report at 59.

⁵⁸ Interview by U.S. Department of Labor official with Indian child carpet worker in New Delhi (February 1995).

⁵⁹ 1994 Testimony of SACCS.

⁶⁰ "17 Child Labourers Rescued from Uttar Pradesh," *The Times of India*, February 22, 1995. Many other newspaper reports and non-governmental publications have described similar conditions. See Stephan Wagstyl, "The Child Victims of India's Slave Trade: India's Poor Sell Their Children as Cheap Labour Without Suspecting the True Nature of the Transaction," *The Financial Times*, December 19, 1992; Joshi Vijay, "Kids Bound to the Looms," *Associated Press*, July 14, 1992; "Bonded Child Laborers Kidnapped After Rescue," *The Economic Times (India)*, October 7, 1993; "Fear Stalks Rescued Kids," *The Times of India*, January 12, 1994, *Child Workers in Asia*, vol. 8, no. 4 and vol. 9, no. 1 (October-December 1992 and March 1993) 28.

to work as bonded laborers in the Indian carpet industry.⁶¹ These children, reportedly sought out because they are perceived as pliable and easy to intimidate, are recruited with promises of high wages and are then forced to work under abysmal conditions.⁶² They work up to 18 hours a day, are poorly fed and lodged, and are paid little or no wages.⁶³ NGOs operating in the region estimate that 20,000 to 25,000 Nepali children have become bonded in this manner.⁶⁴

The United States imported \$156 million of hand-made carpets from India in 1994.

Reports of bonded child labor in Pakistan suggest that up to 500,000 children are bonded in the carpet industry.⁶⁵ A 1992 study of the carpet weaving industry in Punjab province, which accounts for the largest population of carpet workers in Pakistan, found that over 80 percent of carpet weavers are children under 15 and estimated that there are approximately 1.2 million children engaged in carpet-weaving in Pakistan.⁶⁶ The study concluded that the number of families who pledged their children's work in return for a money advance was, at that time, increasing.⁶⁷ The Pakistani carpet industry's use of child labor and child bonded labor has come under increased international scrutiny after the killing of Iqbal Masih, a former bonded carpet worker. Prior to his murder, Masih had become an

⁶¹ Juyal 1993 at 6.

⁶² Gauri Pradhan, ed., *Misery Behind the Looms: Child Laborers in the Carpet Factories in Nepal* (Kathmandu: Child Workers in Nepal-CWIN, May 1993) 30 [hereinafter Pradhan].

⁶³ "South Asian Seminar on Child Workers in Carpet Factories," in *Newsletter of Child Workers in Nepal Concerned Center*, nos. 15 & 16 (CWIN, December 1992) [hereinafter South Asian Seminar] 14.

⁶⁴ South Asian Seminar at 14.

⁶⁵ *World Labor Report 1993* at 11. See also M. Mahmood, S. Riaz, M. A. Nazeer, and M. E. Haq, *Child Labour in Brick Kiln Industries* (Lahore: University of Punjab, 1991) cited in A. R. Kemal, *Child Labour in Pakistan* (Islamabad: Pakistan Institute of Development Economics, 1994) 10 [on file] [hereinafter Kemal]. According to the *World Labor Report 1993*, the arrival of Afghan refugees, including children, in Pakistan has increased the numbers.

⁶⁶ UNICEF Punjab Report at 3.

⁶⁷ UNICEF Punjab Report at ii.

advocate for the liberation of bonded laborers.

The bondage of children in the Pakistani carpet industry occurs mainly in rural areas. Some children, working on household looms, are bonded along with their entire family, while others are sent away from their families to weaving centers where the majority of workers are bonded children.⁶⁸ Since factories employing less than ten workers are not covered by most labor laws, large carpet-weaving centers have broken down into smaller units or turned to subcontracting arrangements to avoid these laws.⁶⁹

Bondage occurs in the home context when the head of the household takes advances from the "thekadar" (contractor), a middleman who controls the looms, provides material inputs and transports finished carpets to export centers. Payment is made to the family weavers according to the quantity and quality of work produced, but the families rarely receive enough income to cover payments on the initial loans. Contractors arbitrarily make deductions from the promised payment amounts for mistakes or failure to meet production deadlines.⁷⁰

Pressure exerted by the contractors to meet quotas and deadlines induces families to put their children to work. Families become increasingly dependent on the loans advanced by the contractor, resulting in "an inescapable cycle of debts which keeps the children in virtual forced labor for many years."⁷¹ The families are not allowed to abandon their work until their debt is deemed repaid.⁷²

Often the parents who set up looms at home do not get involved in carpet weaving themselves. Requiring their children to work at the home looms may enable unemployed fathers to stop looking for work.⁷³ Children generally do not attend school and are rarely

⁶⁸ *Contemporary Forms of Slavery in Pakistan* (New York: Human Rights Watch/Asia, 1995) 48 [hereinafter *Contemporary Forms of Slavery in Pakistan*].

⁶⁹ *Discover the Working Child* at 19; *Contemporary Forms of Slavery in Pakistan* at 50.

⁷⁰ *Contemporary Forms of Slavery in Pakistan* at 51.

⁷¹ *Discover the Working Child* at 19.

⁷² *Contemporary Forms of Slavery in Pakistan* at 56.

⁷³ UNICEF Punjab Report at 12.

allowed to play during the day.⁷⁴ Most do not receive any pay directly but instead only get small sums for pocket money from their parents.⁷⁵

In other instances, particularly in the Thar area of Sindh province, children are sent or brought to work at private loom centers by their parents who in exchange receive a loan. As in India, there are cases where children are abducted and sold into bondage.⁷⁶ Bonded child carpet weavers working in private centers often suffer abusive conditions. Interviews with bonded child carpet workers suggest that they are frequently beaten if they work too slowly, make errors, or disobey instructions. They are often forcibly confined and locked inside guarded buildings. Cases have been reported where bonded children are chained to the looms so as to prevent escape.⁷⁷ Local police often fail to prosecute loomholders who commit such abuses.⁷⁸

The United States imported \$48 million of hand-made carpets from Pakistan in 1994.

In Nepal, the number of children engaged in the carpet industry appears to have declined since 1994. It is reported that in early 1994 (before the decline) child workers, mainly migrants from the countryside, constituted from one-third to one-half of the labor force in carpet factories.⁷⁹ According to several sources, as many as 150,000⁸⁰ carpet

⁷⁴ UNICEF Punjab Report at 3 and 12.

⁷⁵ UNICEF Punjab Report at 13 .

⁷⁶ *Contemporary Forms of Slavery in Pakistan* at 52.

⁷⁷ *Contemporary Forms of Slavery in Pakistan* at 56-57.

⁷⁸ *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of Human Rights Watch/Asia) [hereinafter Testimony of Human Rights Watch/Asia]. See also *Contemporary Forms of Slavery in Pakistan* at 55.

⁷⁹ According to the U.S. Department of State, children made up one-third of the carpet labor force. *Country Reports* at 1245. A survey conducted by Nepalese NGO Child Workers in Nepal Concerned Center (CWIN) in 1992 indicated that children represented as much as half of the total carpet labor force. Pradhan at 3.

⁸⁰ Pradhan at 3; Statement of Gopal Siwakoti, Executive Director of INHURED International (a Nepali human rights organization), prepared for the U.N. World Conference on Human Rights, March 13, 1994, 4 [hereinafter Siwakoti Statement].

workers were children, 10,000⁸¹ to 27,000⁸² of whom were in debt bondage as a result of loans taken by their parents from labor contractors or landlords. Labor contractors have been known to lure or even kidnap children, often pocketing the children's income on the pretext of remitting it to the parents.⁸³

By the end of 1994, negative publicity in Europe concerning the use of child labor and a resulting drop in Nepalese exports prompted the Nepalese Government and carpet manufacturers to move to eliminate child labor in carpet factories.⁸⁴ As a result, the use of child labor in the carpet industry has dropped to 5-10 percent of the carpet labor force, according to various sources.⁸⁵ The Government of Nepal is working with the carpet industry and NGOs to establish a certification for carpets made without child labor, and Government inspectors have increased their monitoring of child labor in carpet factories.⁸⁶

The United States imported \$5 million of hand-made carpets from Nepal in 1994.

b. Glass

Bonded child laborers work in the glass industry in Ferozabad, India, 150 miles south of Delhi.⁸⁷ Estimates of the total number of children at work in Ferozabad range from 8,000

⁸¹ Pradhan at 32.

⁸² Siwakoti Statement.

⁸³ Omar Sattaur, *Child Labour in Nepal* (Kathmandu: Anti-Slavery International and Child Workers in Nepal Concerned Centre, 1993) 34 [hereinafter Sattaur].

⁸⁴ "Nepal's Carpet Makers Warned on Child Labor Law Violations," *Journal of Commerce*, May 30, 1995; Gopal Sharma, "Nepal Moves to Punish Child Labour Abusers," *Reuters Asia-Pacific Business Report*, May 26, 1995.

⁸⁵ See American Embassy-Kathmandu, unclassified telegram no. 2665, June 23, 1995 [hereinafter Kathmandu 2665]; *Country Reports* at 1245. The Government of Nepal estimates that less than one percent of the workers in the carpet industry are children. See "Nepalese Carpets Flying Low," *Depthnews Asia*, Manila, January 1995, in *World Press Review* (June 1995) 35.

⁸⁶ Kathmandu 2665; *Country Reports* at 1245.

⁸⁷ *Born to Work* at 21; *Children in Bondage: Slaves of the Subcontinent* at 12.

to 50,000.⁸⁸ Anti-Slavery International estimates that 70 to 80 percent of these children are bonded by debt incurred by their parents in the form of advances.⁸⁹ Many of the bonded child laborers are children of landless agricultural workers.

The parents of bonded children take advances from middlemen. The children are expected to pay off the loan from their wages. In an interview in a village just outside Ferozabad, two boys, aged eight and twelve, said that they had been left behind by their parents, who had received advances. The two boys lived alone in the factory where they worked and cooked their own meals. Their job was to arrange glass bangles on trays before they were put into the furnace.⁹⁰

Conditions in glass factories in Ferozabad have been compared to Dante's *Inferno*. The intense heat from furnace temperatures reach 1,400 to 1,600 degrees Celsius; there is a lack of ventilation, pieces of broken glass everywhere, and dangling electric wires. Adults and children work without protective gear such as shoes, gloves or goggles.⁹¹ Both adult and child workers stand outside furnaces dipping iron rods into molten glass, bringing it out, and throwing it to glass molders or blowers. Boys as young as 11 and 12 sit on the floor for long hours in front of the pot furnaces, melting and fastening glass bangles and beads.⁹² Often glass splinters injure the workers, and pieces of glass cut into the children's bare feet. Children have to run very fast with the molten glass before it cools. They often bump into one other, sometimes scorching each other's bodies.⁹³

The air in the glass factories is full of soot and dust. Workers suffer from asthma,

⁸⁸ ILRERF Report at 67.

⁸⁹ *Children in Bondage: Slaves of the Subcontinent* at 12.

⁹⁰ *Born to Work* at 22.

⁹¹ ILRERF Report at 67-68. Visits by Departments of Labor and State officials in 1994 confirmed the ILRERF's description of conditions in glass factories.

⁹² ILRERF Report at 68.

⁹³ U.S. Department of Labor, Bureau of International Affairs, *By the Sweat and Toil of Children (Volume I): The Use of Child Labor in U.S. Manufactured and Mined Imports* (Washington, DC, 1994) 82 [hereinafter *By the Sweat and Toil of Children (Volume I)*].

bronchitis, eye problems, liver ailments, skin burns, tuberculosis and chronic anaemia.⁹⁴ Children in the glass factories have been reported to suffer from mental retardation;⁹⁵ one doctor found genetic damage to occur in the body cells of glass factory laborers who work close to the furnace heat for three years or more.⁹⁶

A February 1995 news report stated that Indian Labour Department officials raided two glass factories in Ferozabad that were illegally employing children. Twenty children from age 7 to 11 were released from the factories. They had been working 10-11 hour days for only ten rupees (approximately 30 cents) per day. They suffered from multiple burn injuries, chest pains and chronic coughing, but had received no medical treatment for their injuries while at the factory.⁹⁷

The glass factories in Ferozabad produce such items as glass bangles, chandeliers, wine glasses, beads, bulbs, test tubes and beakers.⁹⁸

The United States imported \$4 million of manufactured glass products from India in 1994.

c. Stone Quarries

Bonded labor, including child bonded labor, is widespread in the quarrying of granite and other stones in India.⁹⁹ Children are required to work along with their parents in order

⁹⁴ *Children in Bondage: Slaves of the Subcontinent* at 12; "Abuses Against Children," *Asia Link* (October-December 1993) reprinted in *Child Workers News*, vol. 2, no. 1 (Madras: Arunodhaya, January-March 1994) 4.

⁹⁵ *Carpets At What Cost*, Consumer Unity and Trust Society [brochure], 3 [on file].

⁹⁶ Sheela Barse, "Glass Factories of Ferozabad," reprinted in Jose Verghese, *Human Rights in India Today* (New Delhi: National Center for Protection of Human Rights, 1992).

⁹⁷ "20 Children Freed from Servitude," *Indian Express*, February 10, 1995.

⁹⁸ *By the Sweat and Toil of Children (Volume I)* at 81.

⁹⁹ ILRERF Report at 87. Anti-Slavery International estimates that there are one million child workers in India's stone quarries. *Children in Bondage: Slaves of the Subcontinent* at 12. In 1983, Supreme Court Justice Bhagwati ruled that over ten thousand men, women and

to maximize production. Entire families work digging stones out of the earth with their hands and hand-tools, and cutting rocks and boulders into pieces. Children aged 4 to 14 work up to 14 hours a day carrying loads of rocks. They also break stones with hammers as they hold the stones with their feet.¹⁰⁰

Accidents caused by explosions or drilling are common.¹⁰¹ One report describes how boys aged ten to twelve were observed using a pneumatic drill, "directing the bit with their bare toes, standing within two feet of the top of a 200 foot rock-face." A twelve year old boy was observed whose face had been disfigured by flying rock from an explosion.¹⁰² Workers also suffer from respiratory illnesses due to inhaling stone dust.¹⁰³

Contractors working for quarry owners secure the labor of poor, landless migrant families. The workers are required to purchase their own materials, including drills and gunpowder, and provide for their own medical expenses and housing. They often have no choice but to borrow money from the contractors, moneylenders or quarry owners. Dependence on loans and advances leads to a high incidence of debt bondage, with debts ranging from 100 to 10,000 rupees (approximately \$3.00 to \$300.00).¹⁰⁴ No records of the debts are kept. Bonded families are not allowed to leave until their debt is repaid, but low wages and high interest rates make this difficult.¹⁰⁵ Physical threats are sometimes used to

children were illegally being forced to work as bonded laborers in India's stone quarries. *Id.* at 16.

¹⁰⁰ ILRERF Report at 87; *Children in Bondage: Slaves of the Subcontinent* at 14. See also Melissa Blackburn, "A Tradition of Slavery," in *Anti-Slavery Reporter* (London: Anti-Slavery International, 1994) 59 [hereinafter Blackburn].

¹⁰¹ Blackburn at 59.

¹⁰² Peter Cross, *Bonded Quarry Workers: Tamil Nadu, India* (Anti-Slavery International, January 1993) [on file].

¹⁰³ Reggie Norton, *Report of a Visit to India and Pakistan to Look at the Bonded Labour Situation* (unpublished Anti-Slavery International research, 1990) 3 [on file] [hereinafter Norton].

¹⁰⁴ ILRERF Report at 87; Norton at 2-3.

¹⁰⁵ ILRERF Report at 87; A. Sekar, *A Study of Granite Export and Bondage of Stone Cutters in Tamilnadu* (India: The Association of the Rural Poor, n.d.) 13 [on file];

intimidate workers and prevent them from leaving.¹⁰⁶ Bonded children are sometimes sold to other contractors.¹⁰⁷

Sometimes children are born into bondage because of a debt owed by their parents to contractors.¹⁰⁸ In stone quarries in Faridabad, near Delhi, "three generations may be seen working side by side in conditions of brutal debt bondage."¹⁰⁹ Most of the youngest generation receive no wage.

A study of stone quarries at Ghaziabad, also near Delhi, found that 25 percent of some 2,000 workers were between the ages of 10 and 14. Whole families were found to be working 10 to 11 hours a day, seven days a week. They lived in huts made of mud and straw and lacked schools and other amenities. Female workers were frequently sexually harassed, even raped. Many workers wished to leave but could not because of the debts they owed. While a truckload of stone normally fetches 45 to 58 rupees, the families only took home 15 to 20 rupees after making loan payments to the contractors.¹¹⁰

In January 1995, the Indian Citizens' Commission on Bonded Labour and Child Labour obtained the release of 76 bonded laborers working at a stone quarry in the Bhiwini District near Delhi. Over half of the workers were described as children in a news report covering the release.¹¹¹

The United States imported \$34 million of worked and unworked stone, including

Blackburn at 59.

¹⁰⁶ Blackburn at 59.

¹⁰⁷ ILRERF Report at 87.

¹⁰⁸ Sawyer at 56.

¹⁰⁹ *Children in Bondage: Slaves of the Subcontinent* at 14. It was the conditions of the families working in the Faridabad quarries that prompted the establishment in 1980 of the Bonded Labor Liberation Front (BLLF) of India. Sawyer at 56.

¹¹⁰ Blackburn at 59.

¹¹¹ *India -- Bonded labor: 20 Years After its Abolition*, Anti-Slavery International submission to the U.N. Working Group on Contemporary Forms of Slavery, Twentieth Session, April 1995 [on file].

granite and marble, from India in 1994.

d. Silk

An estimated 5000 children work in the silk thread manufacturing industry in southern Karnataka in southwestern India.¹¹² Some of the factories in the town of Dasarayara Palya are reported to rely on a form of bonded child labor. Girls ranging in age from 5 to 16 are pledged to work by their parents, who in return receive a loan from the factory owner of between 5,000 and 6,000 rupees (approximately \$160 to \$192). The children, who earn 50 paises to 2 rupees (approximately 1½ to six cents) per hour, are required to work until the loans are paid off. They are obliged to work up to 14 hours a day "until their parents and the owner decide otherwise."¹¹³

The silk handloom industry in Varanasi (east central India) and Kanchipuram (southeastern India near Madras) also commonly employs bonded children, mostly girls, some as young as six.¹¹⁴ Sometimes parents continue to borrow money even as the initial debt is being worked off by the child. If the child changes employers, the debt is simply transferred.¹¹⁵

Most of these child bonded laborers in the silk handloom industry work in unregistered production units that perform work for registered factories.¹¹⁶ Children are often paid on a piece rate basis. No written accounts are kept. Sometimes children receive no wages for a period of two years while they improve their weaving skills.¹¹⁷

Children are verbally and physically abused. Some complain of being beaten with rods for making mistakes. They work in poorly ventilated, damp, cramped weaving pits in crouched positions. Constant exposure to dust particles causes respiratory infections, and

¹¹² ILRERF Report at 76.

¹¹³ ILRERF Report at 75-76.

¹¹⁴ *Born to Work* at 22-3; ILRERF Report at 78.

¹¹⁵ ILRERF Report at 78.

¹¹⁶ ILRERF Report at 76.

¹¹⁷ ILRERF Report at 77-78.

poor lighting and long working hours damage their eyesight. Some children develop peptic ulcers from ingesting dye when they break off thread with their teeth. They are generally poorly nourished.¹¹⁸ Labor inspectors rarely visit the small silk weaving production units.¹¹⁹

One study reports that children working in the silk handloom industry in Bhagalpur, in the central eastern state of Bihar, are similarly bonded. Parents pledge their children's labor in exchange for loans offered at exorbitant interest rates.¹²⁰

The United States imported \$28 million of silk thread and silk fabric from India in 1994.

e. Locks

In the town of Aligarh, 100 miles southeast of Delhi in Uttar Pradesh, poor Muslim families become bonded laborers when advances are taken from middlemen.¹²¹ It is estimated that 80 percent of the locks made in India are produced in Aligarh.¹²² Many children in the lock industry work as part of a family unit but others are found in workshops away from their families. Most production occurs in workshops engaging between 5 and 15 employees.¹²³

According to one report, many children in the lock industry in Aligarh find themselves in bondage, cut off from their families. The owners of the lock companies classify their

¹¹⁸ ILRERF Report at 78.

¹¹⁹ ILRERF Report at 78. Eighty percent of employers in Varanasi said that they had never been visited by a labor inspector. *Id.*

¹²⁰ Dr. Nidhi Sinha, *Child Labour in Indian Silk Industry* (New Delhi: Uppal Publishing House, 1994) 59.

¹²¹ *Children in Bondage: Slaves of the Subcontinent* at 16.

¹²² Indian Commission on Labour Standards and International Trade, *Child Labour in India: A Perspective* (New Delhi: June 1995) 125 [hereinafter Indian Commission on Labour Standards and International Trade].

¹²³ Indian Commission on Labour Standards and International Trade at 126.

firms as cottage industries so that they are not regulated under the Child Labor Act of 1986. Many of the small "cottage industries" are subcontractors for larger factories that export.¹²⁴

A survey of 100 manufacturing units conducted by the Labor Department of Uttar Pradesh indicated that children under the age of 14 make up over 50 percent of the work force engaged in polishing, electroplating and spray-painting of locks and lock parts, all of which are considered to be hazardous jobs.¹²⁵ In spray-painting, children inhale large quantities of paints and paint thinners which are harmful to their lungs. Common ailments include cough, fever, breathlessness, tuberculosis and bronchitis. Many children work late into the night.¹²⁶

The United States imported \$23,000 worth of locks from India in 1994.

f. Brassware

Bonded children from 8 to 12 years of age work in the brassware industry of Moradabad in Uttar Pradesh. The children are recruited from surrounding villages by middlemen called "dalals." These middlemen are paid a commission by factory owners or contractors for bringing in child workers. Children are preferred over adults because they are easy to control.¹²⁷

Parents who pledge the work of their children are given an advance, typically equal to one month's wages. Once a parent takes an advance, the child is required to work. One report states that if a child "plays hooky," wages of other children from the same village are cut.¹²⁸

Children in the brassware industry work in all areas of production, including

¹²⁴ See *International Child Labor Hearing*, U.S. Department of Labor (May 5, 1995) (Statement of Françoise C. Remington, Executive Director of Forgotten Children, May 1, 1995) [hereinafter Remington].

¹²⁵ Indian Commission on Labour Standards and International Trade at 127.

¹²⁶ Indian Commission on Labour Standards and International Trade at 127.

¹²⁷ *Born to Work* at 164.

¹²⁸ *Born to Work* at 164.

electroplating, polishing and application of chemicals. They work under hazardous conditions for long hours and low wages. Children wearing no protective gear remove molten metal from molds near furnaces that reach temperatures of 1,100 degrees Celsius. Burns are a constant danger.¹²⁹ The constant inhalation of fumes from the furnaces and metal dust leads to tuberculosis and respiratory problems. Children engaged in polishing are at risk of injury from pieces of metal that slip and ricochet into the air. Children suffer from eye irritations from fumes that permeate the workshops during acid washing of the brassware.¹³⁰

It is reported that over 90 percent of brassware goods made in Moradabad are exported.¹³¹ These goods include vases, planters, plates, dinner services, tea sets, and other decorative objects.¹³²

The United States imported approximately \$26 million worth of brass household and kitchen articles from India in 1994.

g. Matches and fireworks

It is reported that at least 30 percent (and probably more) of the children working in the match and fireworks industries of Sivakasi, Tamil Nadu are in debt bondage.¹³³ There are as many as 6000 unregistered "safety match" cottage units in Sivakasi and the

¹²⁹ *Born to Work* at 172.

¹³⁰ *Born to Work* at 174-175.

¹³¹ *Born to Work* at 141.

¹³² *Born to Work* at 140.

¹³³ Anti-Slavery International estimates that 30 to 40 percent of children working in the match and fireworks industry are bonded. *Children in Bondage: Slaves of the Subcontinent* at 12. In a 1991 survey of 115 child workers in the match industry of Sivakasi, the Child Labour Cell of India's National Labour Institute found that 58 percent of the children were "not free to leave their employment because their parents have taken loans from the factory owners." *Child Labour in the Match Industry of Sivakasi* (Noida: Child Labour Cell, National Labour Institute, 1993) 8.

surrounding areas.¹³⁴ Sivakasi produces 75 percent of India's matches and 90 percent of its firecrackers, and has been described as having one of the largest concentrations of child workers in the world.¹³⁵

The average age of child workers in the industry is 10 to 14 years,¹³⁶ but some child workers are reported to be as young as four.¹³⁷ The extremely arid climate and frequent droughts guarantee a steady stream of migrant laborers from surrounding villages, mainly from lower castes and tribal families.¹³⁸ Child laborers are mainly found in the small unlicensed units.¹³⁹

In the match and fireworks industry, the tasks are repetitive and low-skilled. Girls as young as three fill match boxes, stack boxes for packaging and paste labels to boxes. Older girls make and label boxes. Boys mix chemicals used for match tips, and dip the tips in the chemicals.¹⁴⁰ Children in the fireworks industry dye the outer paper, roll the ground powder and pack finished product.¹⁴¹

Conditions of debt bondage arise when parents pledge the labor of their children in exchange for cash advances from recruiting agents. The advances are then deducted from

¹³⁴ *Report of the Subcommittee on Elimination of Child Labour in the Match and Fireworks Industries in Tamilnadu* (Government of Tamilnadu and UNICEF, March 1993) 7 [on file] [hereinafter Tamilnadu Subcommittee on Elimination of Child Labour Report]; G. V. Krishnan, "Plea to Abolish Child Labour," *The Times of India*, April 5, 1994 [hereinafter Krishnan].

¹³⁵ Indian Commission on Labour Standards and International Trade at 95.

¹³⁶ Tamilnadu Subcommittee on Elimination of Child Labour Report at 8.

¹³⁷ *Children in Bondage: Slaves of the Subcontinent* at 10.

¹³⁸ ILRERF Report at 80-81.

¹³⁹ *Pilot Study of Child Labor in Sivakasi* (New Delhi: ICFTU-APRO, South Asia Office, 1992) 4 [hereinafter ICFTU-APRO].

¹⁴⁰ ILRERF Report at 81.

¹⁴¹ ICFTU-APRO at 4.

the children's pay.¹⁴² Agents advance sums of money ranging from 500 to 2,000 rupees (approximately \$15.00 to \$60.00) to the children's parents.¹⁴³ Other children are bonded by debts incurred by their parents as interest on loans.¹⁴⁴ Sometimes recruiting agents advance money to the children instead of their parents, "and this keeps them bound to the employer."¹⁴⁵ There are cases where children are pledged to the factories before they are even born.¹⁴⁶

Children work an average of 12 hours a day, with a short break for lunch, six or seven days a week. Sometimes they are kept at work for over 14 hours a day.¹⁴⁷ They are picked up by bus from their village between 3 and 5 a.m. and are returned home between 6 and 9 p.m.¹⁴⁸

They work in cramped, dark sheds in crouched positions and are exposed to dangerous chemicals such as chlorates, phosphorous and sulphur. There is a constant risk of fire and explosions, yet the children wear no protective gear.¹⁴⁹ Local doctors report that children suffer from chronic bronchitis, broncho-pneumonia, tuberculosis, malnutrition, gastrointestinal disorders, skin disorders, over-exhaustion, burns, water borne diseases and eye infections. Harsh treatment by employers is common, and girls as young as seven and

¹⁴² Subcommittee on Elimination of Child Labour Report at 10. *See also* Myron Weiner, *The Child and the State in India* (Princeton: Princeton University Press, 1991) 24 [hereinafter Weiner]; *Born to Work* at 24-25.

¹⁴³ ILRERF Report at 82.

¹⁴⁴ *Children in Bondage: Slaves of the Subcontinent* at 10.

¹⁴⁵ *Born to Work* at 24.

¹⁴⁶ Kulkarni, M. N., "Match-making in Sivakasi," *Economic and Political Weekly*, vol. XVIII, no. 42 (October 1983) *cited in* *Born to Work* at 25.

¹⁴⁷ Indian Commission on Labour Standards and International Trade at 99.

¹⁴⁸ Weiner at 24.

¹⁴⁹ ILRERF Report at 82-3. *See also* *Children in Bondage: Slaves of the Subcontinent* at 11-12.

eight are reportedly sexually assaulted by supervisors outside of factory premises.¹⁵⁰

The Government of India considers these industries hazardous, and the Child Labor (Prohibition and Regulation) Act prohibits employment of children under 14 in the industry except "in the process of family based work."¹⁵¹

The United States imported \$21,000 of matches and fireworks from India in 1994.

h. Brick Kilns

The brick kiln industry -- the molding and firing of bricks from clay -- is a significant employer of bonded child labor in both India and Pakistan. Brick kilns employing bonded laborers are located in small-scale manufacturing units on the outskirts of urban areas in both countries.¹⁵² Families live and work on the site. The work, which is seasonal, attracts migrant labor from surrounding rural areas.¹⁵³ Brick kiln laborers are usually landless families from the lowest classes or ethnic minorities.¹⁵⁴

A large number of children and families in the brick kiln industry work under conditions of debt bondage.¹⁵⁵ Human Rights Watch/Asia estimates that brick kilns in Pakistan "operate almost exclusively on the basis of debt bondage."¹⁵⁶ Children working at brick kilns are largely regarded as part of a bonded family unit and work alongside their parents, with only the head of the family receiving remuneration.¹⁵⁷ There are also cases,

¹⁵⁰ ILRERF Report at 83.

¹⁵¹ Indian Commission on Labour Standards and International Trade at 13.

¹⁵² *Children in Bondage: Slaves of the Subcontinent* at 12; *Contemporary Forms of Slavery in Pakistan* at 30.

¹⁵³ Sawyer at 54.

¹⁵⁴ *Discover the Working Child* at 17.

¹⁵⁵ *Discover the Working Child* at 16; Kemal at 16.

¹⁵⁶ *Contemporary Forms of Slavery in Pakistan* at 30.

¹⁵⁷ *Discover the Working Child* at 16.

however, where children inherit debts from parents and become bonded as individuals.¹⁵⁸

Families become trapped in debt bondage after having pledged their labor in return for advances taken from the kiln owners or labor contractors who serve as middlemen. While a laborer initially sees it to his advantage to borrow, the advance "all too often in fact becomes a trap from which, due to a combination of high interest charged, manipulation of the books, and sheer low wages, the labourer never disentangles himself."¹⁵⁹ Sometimes moneylenders arbitrarily call in loans, adding a fine to the original debt when laborers are unable to pay.¹⁶⁰ Often the debt is intergenerational, with families living on the kiln premises in social isolation for generations.¹⁶¹

Children make up a significant part of the brick kiln work force in both countries. In Pakistan, it is estimated that children, who begin working alongside their parents when they are as young as 6 - 8, constitute at least half of the work force. On some sites children have been found to outnumber adults.¹⁶² Estimates of the number of children working at brick kilns in Pakistan range from a conservative estimate of 250,000¹⁶³ to five million.¹⁶⁴ The Human Rights Commission of Pakistan states that the "clear majority" of children in the industry are under fourteen.¹⁶⁵ Many of these children are either the children or

¹⁵⁸ *Children in Bondage: Slaves of the Subcontinent* at 19.

¹⁵⁹ *Discover the Working Child* at 16.

¹⁶⁰ *Children in Bondage: Slaves of the Subcontinent* at 18.

¹⁶¹ *Discover the Working Child* at 17; Ghazanfer Abbas, "Child Labour in Pakistan," *Child Workers in Asia*, vol. 10, no. 3, (July-September 1994) 19 [on file] [hereinafter Abbas].

¹⁶² *Discover the Working Child* at 16.

¹⁶³ *Discover the Working Child* at 16.

¹⁶⁴ Z. Mahmood, S. Riaz, M. A. Nazeer and M. E. Haq, *Child Labour in Brick Kiln Industries* (Lahore: University of Punjab, 1991) cited in Kemal at 10.

¹⁶⁵ *State of Human Rights in Pakistan* (Lahore: Human Rights Commission of Pakistan, 1994) 111 [hereinafter *State of Human Rights in Pakistan*].

grandchildren of the person who originally took a loan.¹⁶⁶ In India, it is estimated that one million children work in the industry along with their families.¹⁶⁷

Children participate in all stages of brick production. In certain tasks, such as the molding of the bricks by hand, children are preferred because of their dexterity and speed.¹⁶⁸ Children also fetch and carry bricks to and from the kilns and load and unload the kilns.¹⁶⁹ Children and their families work long hours, often throughout the night¹⁷⁰ or in the early hours of the morning during the summer.¹⁷¹

The mortality rate of children working in the brick kilns of Pakistan is high.¹⁷² Children work barefoot, unprotected from the sun in summer and the cold in winter. They constantly inhale fine quartz dust from the clay. Common illnesses include tuberculosis, chronic chest infections and silicosis. Children often suffer from injuries to their eyes and fingers.¹⁷³ Deteriorating eyesight and even blindness are common among children.¹⁷⁴

Bonded families are often held as virtual prisoners, requiring special permission to leave the work site until the debt is repaid.¹⁷⁵ Children are often psychologically traumatized. Sexual and physical abuse is often used by employers to punish workers. Several cases were reported in 1994 where the wives and children of bonded workers were kept in captivity or

¹⁶⁶ *Bonded Labor in Brick-kiln Industry of Pakistan* (Lahore: Human Rights Commission of Pakistan, n.d.) cited in *Contemporary Forms of Slavery in Pakistan* at 30.

¹⁶⁷ *Children in Bondage: Slaves of the Subcontinent* at 12.

¹⁶⁸ Sawyer at 54.

¹⁶⁹ Sawyer at 54; *Children in Bondage: Slaves of the Subcontinent* at 12.

¹⁷⁰ Sawyer at 55.

¹⁷¹ *Discover the Working Child* at 16.

¹⁷² *Contemporary Forms of Slavery in Pakistan* at 43.

¹⁷³ Sawyer at 55. See also *Discover the Working Child* at 16.

¹⁷⁴ *Contemporary Forms of Slavery in Pakistan* at 43.

¹⁷⁵ *Discover the Working Child* at 16.

in chains by brick-kiln owners wanting to intimidate or punish the employee.¹⁷⁶ "The children... grow up in a climate of insecurity and fear, being daily witnesses of their parents being humiliated, insulted or worse."¹⁷⁷

In a 1995 study on bonded children working in the brick kiln industry in the Northwest Frontier Province of Pakistan, it was found that of 40 children interviewed, ranging in age from 5 to 10, only three had managed to reduce their debt since beginning to work at the kilns, despite the fact that the average period working as bonded laborers was over two years.¹⁷⁸ The bonded families live on the work site isolated from the rest of society and guarded by the owners. One child interviewed said that his family only received pay for complete sets of 1000 bricks. Since the bricks must be left out in the sun to dry for a few days before firing, rainfall could destroy several days of work and pay.¹⁷⁹

In Pakistan, a Supreme Court decision in 1988 abolished the "peshgi" system of advances and held that brick kiln workers were to be considered bonded laborers.¹⁸⁰ Bonded laborers freed as a result of the 1988 decision were replaced by other workers attracted to the industry. They, in turn, became bonded.¹⁸¹ Despite the illegality of the advance system,

¹⁷⁶ *State of Human Rights in Pakistan* at 121. *See also Discover the Working Child* at 16.

¹⁷⁷ *Discover the Working Child* at 17.

¹⁷⁸ Study conducted by the ICFTU-affiliate All Pakistan Federation of Labor. *See* letter from the ICFTU to the International Child Labor Study (April 21, 1995) [on file] [hereinafter ICFTU letter].

¹⁷⁹ ICFTU letter.

¹⁸⁰ *Children in Bondage: A Call for Action* at 16. The bonded labor system in Pakistan consists of giving advances of "peshgi" (bonded money) to a person. As long as all or part of the peshgi debt remains outstanding, the debtor/worker is bound to the creditor/employer. In cases of sickness or death, the family of the individual is responsible for the debt, which often passes down from generation to generation. In the case of children, the peshgi is paid to a parent or guardian, who then provides the child to work off the debt. *By the Sweat and Toil of Children (Volume I)* at 127. In 1992, Pakistan enacted legislation prohibiting bonded labor.

¹⁸¹ Report by the Bonded Labor Liberation Front of Pakistan to the U.N. Working Group on Contemporary Forms of Slavery, Nineteenth Session, May 1994, 2-3 [on file].

bonded labor continues to be widespread in the brick kiln industry.¹⁸² The practice continues at least in part because of ". . . the lack of effective legal remedies, illiteracy, psychological dependence on advances, lack of alternative employment and the social forces which sanction the practice"183

i. Beedis

Beedis are hand-rolled local cigars. There are thousands of bonded child workers, girls and boys as young as 7-8, engaged in the beedi industry in the southern state of Tamil Nadu, India.¹⁸⁴ One newspaper report estimates that at least half of the children working in the beedi industry in Tamil Nadu are bonded.¹⁸⁵

There are some 300 large beedi companies in Tamil Nadu and between 3000 and 4000 small contractor production units.¹⁸⁶ The tobacco leaves are distributed to the contractors, who oversee the rolling of the leaves into beedis. These units, which usually house ten or more children, are small, dark and poorly ventilated. The children are sometimes beaten or caned for making mistakes.¹⁸⁷

Children in the beedi manufacturing industry cut and clean the leaves and roll, bind

¹⁸² *Contemporary Forms of Slavery in Pakistan* at 29.

¹⁸³ *Discover the Working Child* at 17.

¹⁸⁴ *India -- Bonded Labour: 20 Years after its Abolition*, Anti-Slavery International submission to the U.N. Working Group on Contemporary Forms of Slavery, Twentieth Session, April 1995 [on file]. Under India's 1986 Child Labour (Prohibition and Regulation) Act, employment of children under the age of 14 is prohibited in the beedi industry, except in the context of family-based work. *See Report of Indian Commission on Labour Standards and International Trade* at 13.

¹⁸⁵ M.S. Dinakar, "Mere Pawns in Beedi Industry," *Indian Express*, December 9, 1992 [on file] [hereinafter Dinakar article].

¹⁸⁶ Dinakar article.

¹⁸⁷ "Rights of Bonded Child Labourers?," *Child Workers News* (Royapuram: Arunodhaya Centre for Street and Working Children, July-September/October-December 1994) 3 [on file] [hereinafter Arunodhaya Centre article]. *See also* Dinakar article.

and close the ends of the cigars.¹⁸⁸ They become bonded when parents pledge their labor as security on an advance taken from contractors or middlemen who run small, illegal manufacturing units.¹⁸⁹ Sometimes children who have been mortgaged by their parents work at home, where they are usually out of the reach of labor inspectors.¹⁹⁰ The advances taken by parents range from 500 to 6,000 rupees (approximately \$16.00 to \$190.00). Interest rates charged by the contractors range from 10 to 25 percent.¹⁹¹ Because the children and their parents are illiterate and lack basic math skills, employers often demand that they continue working to pay off the debt even when the principal and interest have in fact already been paid.¹⁹²

Contractors use various schemes to retain the bonded workers. Children are sometimes required to roll 1000 beedis per day and are generally paid six to seven rupees (20 to 22 cents) per batch of 1000 -- about one-fourth of adult wages. If they fail to meet the quota, or if the quality of the beedis are found to be poor, their wages are cut or they are required to make up the loss by performing extra work the following Sunday.¹⁹³ Sometimes contractors do not directly charge interest on advances but pay bonded workers only half or less of the amount that a regular worker would receive for commensurate work.¹⁹⁴

j. Other

¹⁸⁸ N.K. and B.K. Behura, "Incidence of Child Labour in Orissa: Case Studies from Bhubaneswar," in Pafi, R.N., ed., *Rehabilitation of Child Labourers in India* (New Delhi: Ashish Publishing House, 1991) 121.

¹⁸⁹ Dinakar article. *See also* "Katpadi . . . Where Children are Pledged for Rs. 1,000," *Indian Express*, March 24, 1990 [on file] [hereinafter *Indian Express* article].

¹⁹⁰ *India -- Bonded Labour: 20 Years after its Abolition*, Anti-Slavery International submission to the U.N. Working Group on Contemporary Forms of Slavery, Twentieth Session, April 1995 [on file].

¹⁹¹ P.V.V. Murthy, "Bonded Child Labour in Beedi Industry," *Hindu*, April 11, 1994 [hereinafter Murthy article]. *See also* Dinakar article; *Indian Express* article.

¹⁹² *Born to Work* at 17.

¹⁹³ Arunodhaya Centre article at 3.

¹⁹⁴ *Indian Express* article; Murthy article.

Various studies and news reports indicate that forced child labor is used in the manufacture of various products in small-scale industrial units in the Philippines¹⁹⁵ and Thailand.¹⁹⁶ While it is not possible to identify any one industry or product that consistently utilizes forced child labor in these countries, there are allegations of the false recruitment and abduction of children. Recent reports suggest that similar recruitment and abduction of children occurs in China.¹⁹⁷

The children who are coerced into such situations are often forced to work extremely long hours under poor conditions for little or no wages. In many cases, they are physically confined so as to prevent escape. Sometimes parents are given a false or no forwarding address.

In the Philippines there is evidence of systematic recruitment of children from rural provinces to work clandestinely in small and medium-scale factories in Manila and Quezon City.¹⁹⁸ The recruiters, who often work for agencies, go to the poorest areas and coax parents to part with their children by promising well-paying jobs. Sometimes the recruiters are

¹⁹⁵ The Philippines has not ratified ILO Convention No. 29 Concerning Forced Labor; it has ratified the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. According to the U.S. Department of State *Country Reports on Human Rights Practices for 1994*, forced labor is prohibited under Philippine law. *Country Reports* at 678.

¹⁹⁶ Thailand has ratified ILO Convention No. 29 Concerning Forced Labor, however it is not a party to the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. According to the U.S. Department of State *Country Reports on Human Rights Practices for 1994*, the Constitution prohibits forced or compulsory labor, except in the case of national emergency, war, or martial law. *Country Reports* at 700.

¹⁹⁷ In general, it is difficult to obtain reliable information on child labor in China. Similar problems of access to information exist in some other countries.

¹⁹⁸ Interview with Ana Dionela, child labor project officer for UNICEF Manila in Sheila S. Coronel, "Clandestine Trade in Children," *Philippine Daily Inquirer* (Manila), October 9, 1993 [hereinafter Coronel]. See also Eileen Guerrero, "Bonded Labor of Children on Rise in Philippines," *Associated Press*, June 7, 1994 [hereinafter Guerrero].

neighbors or acquaintances.¹⁹⁹ The children are sometimes kept as virtual prisoners and forced to work long hours for little or no pay, in some cases because they owe their employers for travel expenses or a recruitment fee.²⁰⁰ There are reports of children who literally disappear after being recruited.²⁰¹

In 1993, an NGO found a group of child workers imprisoned in a sardine factory in metropolitan Manila.²⁰² The seven children, the youngest of whom was 12, were recruited from the southern province of Mindanao and were originally promised jobs as domestic workers or store clerks.²⁰³ They were not allowed to leave the factory premises, even on Sundays or holidays, nor to write their parents to tell them where they were. None were paid, despite the fact that some had been working at the factory for over a year.²⁰⁴

Upon their arrival at the factory, the youths were told that they were in debt to the owner for their trip to the factory, the food they were given during the journey, and the payment that the factory owner had made to the recruiter. Of the 23 pesos per day wage that

¹⁹⁹ Coronel.

²⁰⁰ Coronel.

²⁰¹ Chris Panganiban, "Agusan Child Labor Racket Denounced," *Philippines Daily Inquirer* (Manila), February 21, 1994 [hereinafter Panganiban]; Charina Sanz, "Children for the Slave Market," *Sunday Inquirer Magazine*, October 10, 1993 [hereinafter Sanz].

²⁰² After the Kamalayan Development Foundation infiltrated the factory and notified the authorities, the Department of Labor and Employment conducted a rescue operation in the factory. The Kamalayan Development Foundation has been involved in the rescue of some twenty-six bonded child workers in cooperation with the Department of Labor and Employment and other government agencies. See Alex Apit, "A Brief Introduction to the Kamalayan Development Foundation," at the *International Conference on Jobs, Justice and the Development of the International Economy*, International Federation of Trade Unions, Asian Pacific Region Organization and the Trade Union Congress of the Philippines (February 21-24, 1995) 4 [on file].

²⁰³ J. Carson, "Young's Town: 'Prison Camp' and Slave Dungeon for Child Workers," *Child Workers Philippines*, vol. 1, no. 1 (Manila: Kamalayan Development Center, Inc., July 1993) 3 [on file] [hereinafter Carson]. See also Coronel.

²⁰⁴ Carson at 5.

had been originally promised, 25 pesos were deducted to pay for the inadequate and often unsanitary food provided.²⁰⁵ In this way, the children's debt was instantly and systematically perpetuated.

The children were forced to begin work at 3 a.m. and worked into the evening, seven days a week, within guarded factory gates.²⁰⁶ They filled sardine cans with fish parts and were reprimanded by their supervisor if they did not work quickly enough. Their fingers and hands were often slashed from the cans' sharp edges, and their skin damaged and yellowed from constant exposure to water and chemicals.²⁰⁷

In a similar case, which came to public attention after an official raid in 1993, children as young as 14 were found working in a cooking oil factory outside of Manila, where they were held in a walled compound behind barbed wire and armed guards. The living quarters were small cage-like structures which were kept locked during the day.²⁰⁸ The children worked an average of ten hours each day, with meals and medicine deducted from their wages. None of the children received wages for the first two months because they were required to repay the money spent to transport them to the factory.²⁰⁹ The children reportedly

²⁰⁵ "Child Labour: Rescue Operations," *Free Labor World*, no. 4 (Brussels: International Confederation of Free Trade Unions (ICFTU), April 1995) [on file] [hereinafter ICFTU article].

²⁰⁶ Carson at 4 and 7.

²⁰⁷ See Carson at 8; ICFTU article. In May 1994, the Philippine Department of Labor and Employment and the National Bureau of Investigations raided the sardine factory a second time since it continued to operate despite an order to shut down. Labor officials and NBI agents reportedly found about a hundred children working in the factory during the second raid. The children ranged in age from 10 to 17 and were not paid regularly or sufficiently. Former Labor Secretary Nieves Confesor stated that the company continued to operate despite the order to shut down because its owner was protected by a local official of the Philippine National Police. "Confesor urges boycott of firms employing minors," *Philippine Daily Inquirer* (Manila), May 20, 1994.

²⁰⁸ "Robina: 'Barracks' and 'Bartolenas' of the Child Workers," *Child Workers Philippines*, vol. 1, no. 3 (Manila: Kamalayan Development Center, Inc., September 1993) 6-7 [on file] [hereinafter "Robina: 'Barracks' and 'Bartolenas' of the Child Workers"].

²⁰⁹ "Robina: 'Barracks' and 'Bartolenas' of the Child Workers" at 4-5. See also Coronel.

were frequently beaten or otherwise mistreated.²¹⁰

Press reports in 1994 documented a case of six girls aged 14 and 15 who escaped from a print shop in Manila. They were recruited by agents who promised wages of 500 pesos (\$18) per month, but for two years they received no money. They were forced to work up to 21 hours a day. Their mouths were taped to prevent them from talking to each other, and they were physically punished for any mistakes. Although they were locked inside the house, the girls had managed to escape when the door was mistakenly left ajar.²¹¹

The Philippine Government, which has demonstrated an increasing commitment to the elimination of child labor, recently proposed measures to improve regulation of recruitment and placement agencies. Under the proposed new rules, prior to taking a recruit out of his/her home region, recruiting agents would be required to present to the Department of Labor and Employment the recruits' i) birth certificate; ii) medical certificate; iii) National Bureau of Investigation or police clearance; and iv) the recruit in person. The proposed rules also call for the revocation of private recruiting agencies' operating licenses in cases where recruitment agencies are found to engage in illegal recruitment. Firms engaging in illegal recruitment activities will also face criminal charges.²¹² In addition, the Government of the Philippines, in cooperation with local NGOs, carried out 18 rescue operations resulting in the release of 59 illegally-employed children since July 1993.²¹³

Similar situations of false recruitment and otherwise forced child labor have also been documented in Thailand. In 1995, the ILO Committee of Experts stated that in Thailand:

. . . many children continue to work under coercion or in conditions of exploitation which have no resemblance to a free employment relationship. The situation is often linked to forced or false recruitment, deception and trafficking. Children are exploited because they are young and helpless, they are deprived of the right to lead a normal childhood, deprived of education,

²¹⁰ "Robina: 'Barracks' and 'Bartolenas' of the Child Workers" at 11.

²¹¹ Guerrero.

²¹² See *International Child Labor Hearing*, U.S. Department of Labor (May 5, 1995) (Statement of the Government of the Philippines) [hereinafter Testimony of the Government of the Philippines].

²¹³ Testimony of the Government of the Philippines.

*deprived of a future.*²¹⁴

Recruiting agents travel around rural areas, particularly in the impoverished northeastern part of the country, luring children from poor families into sweatshops and factories with promises of well-paying jobs.²¹⁵ According to a staff member of a Thai NGO, many parents do not know where their children have been taken. Factory doors are often locked to outsiders.²¹⁶ In the towns and cities, there are shops that specialize in the selling of children and teenagers.²¹⁷

Children are also recruited and sometimes kidnapped from the central train and bus stations in Bangkok. In one such case, described by representatives of the ILO who visited Thailand in 1993, a young boy was kidnapped at the train station and forced, along with other children, to work very long hours in a small, illegal factory. He was beaten and prohibited from leaving the premises or even from looking through the window. All the windows were sealed and corridors barricaded. Police had to climb over the fence in order to gain entry to the building.²¹⁸

In 1986, the Thai Government's National Youth Bureau conducted a detailed survey, still widely cited, of 145 manufacturing industries utilizing child labor in Bangkok. Results indicated that most of the 325 children interviewed lacked the opportunity to go home for

²¹⁴ *Report of the Committee of Experts on the Application of Conventions and Recommendations: General Report and Observations Concerning Particular Countries* (Geneva: International Labor Organization, 82nd session, 1995) 111 [hereinafter 1995 *Report of the Committee of Experts*].

²¹⁵ *Report of the Committee of Experts on the Application of Conventions and Recommendations: General Report and Observations Concerning Particular Countries* (Geneva: International Labor Organization, 81st session, 1994) 135 [hereinafter 1994 *Report of the Committee of Experts*]. See also *World Labor Report 1993* at 18; Joseph Albright and Marcia Kunstel, "Stolen Childhood, Global Report on the Exploitation of Children," in *Cox Newspapers* (June 21-26, 1987) 11.

²¹⁶ "An Interview with Sanpasit Khumprapan," in *Child Workers in Asia*, vol. 8, no. 4 and vol. 9, no. 1 (October-December 1992 and January-March 1993) 9.

²¹⁷ *World Labor Report 1993* at 18.

²¹⁸ 1994 *Report of the Committee of Experts* at 136.

a visit or even to get in touch with their family. Some children for whom advance payment had been made were not allowed to leave the workplace for fear that they would not return. Many children staying with employers were found to be "confined, scolded and physically or psychologically assaulted."²¹⁹ More than half the child workers were found to work between 9 and 12 hours a day.²²⁰ Six percent of the children were under twelve years old; the rest ranged in age from 12 to 15.²²¹ They were found to suffer from ailments such as muscular pain, skin irritations and eye and hearing problems as a result of exposure to loud noise, heat, dust, chemicals, high intensity light and heavy work load.²²²

In one highly publicized case in late 1991, police raided a paper cup factory in Bangkok and rescued 31 children aged 13 to 15 who were being held as prisoners. Many had been severely beaten; some were partially crippled.²²³ They had been imprisoned in a windowless room, where they were forced to work up to 18 hours per day making paper cups while squatting on the same floor on which they ate and slept. They had been working there for one to four years. Several of the children had to be helped from the building because their atrophied legs, after months without walking, could no longer support them.²²⁴

In 1994, police raided a garment sweatshop in a Bangkok suburb and found girls as young as 14 who were forced to work 16 hours a day sewing jeans for no pay. They were originally promised \$20 per month. Among the workers found were girls from Burma. They were kept behind steel doors and thick window bars and were dependent upon supervisors for meals. Their mail was screened. Some of the prisoners had been held for as long as four years, and had only been allowed out when the factory moved to avoid detection. The shop supervisors were charged with illegal detention of workers, employing child labor, and

²¹⁹ *Welfare and Development of Child Labour in the Manufacturing Industries* (Bangkok: Government of Thailand, 1986) 6 [on file] [hereinafter Government of Thailand Report].

²²⁰ Government of Thailand Report at 3.

²²¹ Government of Thailand Report at 1 and 6.

²²² Government of Thailand Report at 8.

²²³ "Sweatshop Bosses Who Torture Child Workers Could Face Death," *Agence France Presse*, February 6, 1992.

²²⁴ Dave Todd, "Thais Shocked by Story of Worker-Prisoners," *The Vancouver Sun*, July 6, 1992.

harboring and sheltering illegal aliens.²²⁵ According to one report, the demand in Thailand for foreign child workers from countries such as Burma and Laos is growing since they are cheaper than Thai children and less likely to leave.²²⁶

There is some evidence that similar situations involving forced child labor in manufacturing and mining operations are occurring in China.²²⁷ Recent reports in the official Chinese press indicate that increasing numbers of rural children are being kidnapped and recruited to work under exploitative conditions in Chinese cities.²²⁸ Children are "employed in large numbers in textile factories and other sweatshops where they are sometimes locked in and not allowed to leave."²²⁹ In December 1994, coal mine owners in Hunan Province were arrested for having kidnapped over 100 children and forcing them to work under "brutal" conditions with little food or water. The children were forced to work for ten hours per day carrying heavy loads. They were fed only water and melons, were paid little, and were physically mistreated.²³⁰

²²⁵ "Thirty-two Youngsters Freed from Thai Sweatshop," *The Washington Times*, June 3, 1994; "Thai Sweatshop Raid Frees 32 Girls From Slave Labour," *Agence France Presse*, May 31, 1994. Under current Thai law, employers who detain child workers can be fined 6,000 baht (\$240) and be jailed for up to three years. If a child dies as a result of torture or mistreatment on the part of the employer, the maximum sentence is 20 years' imprisonment. In 1994, the Thai Cabinet approved a bill, yet to be enacted into law, that would impose stricter penalties on persons who trade in women and children.

²²⁶ "Lao PDR and Child Labor," *Child Workers in Asia*, vol. 10, no. 2, (April-June 1994) 9.

²²⁷ China's National Labor Law prohibits employers from recruiting juveniles under the age of sixteen. See American Embassy-Beijing, unclassified telegram no. 11680, April 19, 1995. China has not ratified either ILO Convention No. 29 Concerning Forced Labor or the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. *Country Reports* at 1273.

²²⁸ Sheila Tefft, "In China's Rush to Riches, it Tries to Curb Child Labor," *The Christian Science Monitor*, January 31, 1995 [hereinafter Tefft].

²²⁹ Tefft.

²³⁰ Tefft.

2. Latin America

a. Charcoal

Entire families are recruited by labor contractors called "gatos" (literally "cats") to work under slave-like conditions in Brazil's charcoal industry, particularly in the state of Mato Grosso do Sul.²³¹ In a June 1995 radio address, Brazilian President Fernando Henrique Cardoso described the situation of charcoal workers in Mato Grosso do Sul and northern Minas Gerais as "involving both enslaving and degrading labor." He stated that "irregularities range from violations of labor laws -- none of these workers are registered workers -- to poor living conditions and a lack of both freedom of labor and of freedom in general."²³²

Charcoal is produced from felled eucalyptus and pine wood, which is gathered and fired in kilns.²³³ The charcoal is used as an input for pig iron smelters, which procure the charcoal under subcontractor arrangements.²³⁴ Workers often do not know for whom they work, since increasingly smaller production areas are rented to subcontractors to avoid regulation and union organizing efforts.²³⁵

²³¹ Brazil has ratified both ILO Convention No. 29 Concerning Forced Labor, and the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. According to the U.S. Department of State *Country Reports on Human Rights Practices for 1994*, the Constitution prohibits forced labor. *Country Reports* at 340.

²³² See FBIS report dated June 27, 1995 containing translated text of President Cardoso's speech [on file] [hereinafter Cardoso speech].

²³³ Alison Sutton, *Slavery in Brazil* (London: Anti-Slavery International, 1994) 62 [hereinafter Sutton].

²³⁴ While charcoal is not exported from Brazil, it may be used by iron smelters that produce for the export market. It is difficult to establish a link to exported iron since it is difficult to identify the employer of the subcontracted charcoal laborers. See *By the Sweat and Toil of Children (Volume I)* at 39. The United States imports iron filings, ore and pellets from Brazil.

²³⁵ Terri Lapinsky, *The Place for Children is in School: Child Labor in Brazil's Export Industries* (May 1994) 22 [on file] [hereinafter Lapinsky].

Children work alongside their parents at the kilns, raking the charcoal and loading it into sacks or cooling the hot kilns by spreading mud over their sides.²³⁶ The families work in remote areas far from towns, schools or medical facilities and are often prevented from leaving the work premises by armed guards. They are often forced to buy food and supplies at inflated prices at the company store and thus constantly find themselves in debt. This indebtedness reinforces parents' reliance on the work of their children to help boost coal production.²³⁷ There are cases where families -- sometimes recruited from distances of 800 miles or more -- cannot earn enough money to pay for the return trip.²³⁸

Workers in the charcoal industry are vulnerable to silicosis from the fine charcoal dust that permeates the air and lodges in their lungs. One charcoal worker stated that her 11-year-old son had been coughing for a week after having worked for only 20 days at the kilns.²³⁹ Workers suffer from circulatory problems due to long exposure to high temperatures. Splinters and cuts to the hands are common.

In March 1992, labor inspectors found 5,000-8,000 people, including entire families, working in charcoal production in the state of Mato Grosso do Sul. An inspector described the conditions:

We are talking about real human servitude, in which any precept of humanity has been abandoned, with the institutionalization of a policy of company stores (at the end of the period contracted, the worker is still indebted to the employer who has supplied him with the worst quality food at absurd prices).²⁴⁰

The workers were found to be "in an advanced state of malnutrition."²⁴¹ The families worked 12 hour days gathering wood which was stacked up by children as young as nine.

²³⁶ Sutton at 66.

²³⁷ Lapinsky at 22.

²³⁸ Sutton at 71-72.

²³⁹ Sutton at 70-71.

²⁴⁰ Labor inspection report, *Operação Mato Grosso do Sul*, Ministry of Labor archive (March 1992) cited in Sutton at 60.

²⁴¹ Sutton at 60.

At one furnace a 4-year-old girl was found loading charcoal into sacks.²⁴²

In a similar case at a charcoal-producing ranch in Mato Grosso do Sul, the Regional Labor Office discovered 1000 enslaved workers, including over 400 children. These children were recruited along with their parents from the state of Minas Gerais. One worker, who had been working at the ranch for three months along with his wife, nephew and eight children, said that they had been unable to leave because of debts owed to the "gato."²⁴³

During inspections in May 1995, Brazilian labor authorities detected 83 irregularities regarding labor conditions in four companies in Mato Grosso do Sul.²⁴⁴

b. Gold Panning

Children are recruited and forced to work in substandard conditions in gold panning operations in the Madre de Dios department in the jungle of south-eastern Peru.²⁴⁵ The Peruvian National Institute of Planning has estimated that the Madre de Dios region accounts for over three-fourths of Peru's gold deposits, the majority of which are found in the Madre de Dios riverbeds.²⁴⁶ While there are hundreds of registered concessions in Madre de Dios, there are many more -- possibly thousands -- of small, unregistered gold panning concessions

²⁴² Sutton at 60.

²⁴³ *Misery, Fear and Complicity: The Recipe for Slave Labor in Brazil*, Testimony by Darci Frigo, Paraná Pastoral Land Commission, Anti-Slavery International submission to the U.N. Working Group on Contemporary Forms of Slavery, Nineteenth Session, April 1994 [on file].

²⁴⁴ Cardoso speech.

²⁴⁵ Peru has ratified ILO Convention No. 29 Concerning Forced Labor, and is a signatory to the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. According to the U.S. Department of State *Country Reports on Human Rights Practices for 1994*, Peruvian law prohibits forced labor. *Country Reports* at 496.

²⁴⁶ Jesús Guillén-Marroquín, "Child Labour in Peru: Gold Panning in Madre de Dios," in *Combating Child Labour* (Geneva: International Labour Organization, 1988) 61 [hereafter Guillén-Marroquín].

that operate under informal arrangements with larger companies.²⁴⁷

Most of the labor force are migrants from the Andean highlands where there are few opportunities for employment.²⁴⁸ It has been estimated that from 20 to 50 percent of the workers are under the age of 18, with some reportedly as young as 11.²⁴⁹

Contractors promising high wages illegally recruit minors on behalf of the concession owners through informal verbal contracts. The youths are usually recruited for a nine-month period with payment for their return journey conditional on the completion of the contract. The employers generally agree to cover the cost of transport to the mines, as well as food and lodging.²⁵⁰

A Roman Catholic priest living in one of the gold-mining towns in Madre de Dios in 1991 observed that at least ten children ranging in age from 12 to 16 arrived daily on trucks from the city of Cuzco. He stated:

*Human life is worthless here. From the moment the children are loaded onto the trucks they are treated like cattle.*²⁵¹

Children under 18 are often favored by concession owners since they work illegally,

²⁴⁷ Guillén-Marroquín at 61.

²⁴⁸ Guillén-Marroquín at 61 and 65.

²⁴⁹ Guillermo Mosquerira Lobatón, "Minería Aurífera Aluvional en Madre de Dios," in *XI Congreso Nacional de Economistas del Perú* (October 1994) [on file]; Guillén-Marroquín at 65; and Hayes.

²⁵⁰ *Ni Por Todo el Oro del Mundo: Menores Trabajadores en los Lavaderos de Oro de Madre de Dios* (Cusco: Coordinadora Derechos del Niño Región INKA (CODENI), 1991) 16 [on file] [hereinafter CODENI study]; Victoria Marchand, "Life and Death of Children Working in Peruvian Gold Mines," *International Children's Rights Monitor*, vol. 9, no. 2 (Geneva: Defence for Children International, 1992) [hereinafter Marchand]; Guillén-Marroquín at 68. There is contradictory information concerning whether payment for the return trip home following the nine-month contract period is provided by the employer, or is the sole responsibility of the child.

²⁵¹ Hayes.

cannot unionize, and do not register complaints regarding wages.²⁵² "Children are very sought-after as workers. They don't complain. They keep their mouths shut. They work hard because they want to be like grown-ups . . . And they're paid very little . . ." ²⁵³

The workers are irregularly fed during the long trip to the remote gold panneries. They are often weak and ill by the time they arrive.²⁵⁴ The food provided by the employer at the site is usually insufficient; the workers are encouraged to get advances on their wages for extra food and drink which are sold at prices fixed by the employer. Wage advances also are made for medication. Common ailments include insect, bat and snake bites, stomach illnesses, malaria, anemia, colds and piodermis (a chronic skin disease caused by mosquito bites).²⁵⁵ The children sleep in unwalled, temporary structures. Mosquito nets, which are considered indispensable, must be bought or rented from the concession owner.²⁵⁶

When workers realize that the amount they owe is greater than the wages to be paid, they are forced to continue working in order to pay off the difference.²⁵⁷ In some cases, the employers simply refuse to pay at the agreed upon time, forcing the workers to stay on longer.²⁵⁸ Those children who are paid are sometimes cheated out of their wages by drivers during the return trip home.²⁵⁹ One survey found that only half of the gold workers in Madre de Dios returned home with any earnings, despite the fact that their main objective for working had been to gain income for their families.²⁶⁰

²⁵² Guillén-Marroquín at 65.

²⁵³ Hayes.

²⁵⁴ Guillén-Marroquín at 68.

²⁵⁵ Guillén-Marroquín at 68 and 73.

²⁵⁶ Guillén-Marroquín at 72.

²⁵⁷ Hayes; Guillén-Marroquín at 68.

²⁵⁸ Guillén-Marroquín at 71. Some allege that there are cases where employers have children killed so that they do not have to pay them. *See* Hayes.

²⁵⁹ Marchand.

²⁶⁰ Guillén-Marroquín at 69.

The method of production used by the gold washeries is very labor intensive and physically demanding. Children generally work eight hours a day, six days a week, performing many of the same tasks as adults.²⁶¹ One reporter witnessed "boys no more than 14 pushing wheelbarrows in the boiling sun and washing gravel through sluices."²⁶² Children transport top soil and gravel in wheelbarrows along narrow, inclined wooden ramps. They are preferred for this task because of their lightness and agility in negotiating the ramps, but accidents occur when they fall or the ramp overturns, causing bone fractures, dislocations, or muscle damage.²⁶³ During a later phase of production, when mercury is used to separate gold from soil and gravel, young miners come into direct contact with the toxic metal, which also pollutes the water in the river.²⁶⁴

Girls as young as 12 or 13 work 12-14 hours a day, seven days a week. They are responsible for domestic work such as preparing food and washing clothing and eating utensils.²⁶⁵ According to some reports, they are sometimes forced into prostitution.²⁶⁶

Mistreatment of the youths by their employers is reportedly common:

*The employer is free to mistreat, rape or even let the youngsters die out of neglect, should they try to flee, or be caught stealing, or even for no reason whatsoever. Since the youngsters are totally at the mercy of the employer, the latter can forcefully establish this type of patriarchal authoritarian relationship.*²⁶⁷

Many news articles in 1991 reported the discovery of common graves of children in Peru's gold-producing region. Examination of the corpses indicated that the youths had died

²⁶¹ Guillén-Marroquín at 71.

²⁶² Hayes.

²⁶³ Marchand; Guillén-Marroquín at 63 and 74.

²⁶⁴ CODENI study at 21.

²⁶⁵ CODENI study at 19; Guillén-Marroquín at 71.

²⁶⁶ Hayes.

²⁶⁷ Marchand.

of disease, work accidents such as falls, or contusions caused by abusive employers.²⁶⁸

In October 1993, the Peruvian Ministry of Labor carried out an operation on a gold washery in Madre de Dios and rescued 7 youths who were being "exploited as slaves." The youths testified that labor contractors, or "enganchadores," had used dishonest means to recruit them and then had sold them to the concession owners. The boys had been overseen by armed men.²⁶⁹

The United States imported \$16 million of unwrought, non-monetary gold and gold scrap from Peru in 1994. United States imports of gold necklaces from Peru were over \$30 million in 1994.

C. Farm Labor

Large numbers of children around the world are forced to work in the farm sector. Farming may account for greater numbers of forced child laborers than manufacturing, although comparatively little research has been devoted to the subject.

In some countries, particularly in South Asia, debt bondage is the prevalent form of forced child labor in the farm sector. Children are pledged by parents as collateral on a debt or inherit the debts of their parents, which may have been passed down for generations. Debt bondage also occurs under land tenancy or sharecropper arrangements; tenants, along with

²⁶⁸ CODENI study at 7.

²⁶⁹ 1994 *Report of the Committee of Experts* at 124. The ILO Committee of Experts (COE) noted that the Government of Peru (GOP) had closed down and fined clandestine recruitment agencies and organized educational campaigns to prevent workers from being deceived by the "enganchadores." At the same time, however, the COE urged that the Government of Peru take the necessary actions to ensure that appropriate penalties were imposed on violators of the forced labor convention. The Government of Peru indicated that it had decided to draft a directive reiterating the prohibition on the employment of minors and the legal requirements for recruiting workers into the Madre de Dios region. 1994 *Report of the Committee of Experts* at 124. No new developments were reported by the COE in 1995. Representatives of several Peruvian NGOs have indicated that the situation of minors working in the gold washeries remains essentially unchanged. Peruvian Congressman Julio Castro Gómez has proposed that a parliamentary investigation be undertaken. See Letter from the Centro de Asesoría Laboral (CEDAL) to the International Child Labor Study (June 2, 1995).

their children, are expected to provide labor or a share of crops to the landlord. In such cases children work alongside their parents without receiving separate compensation for their labor. When wages are insufficient to cover necessary expenditures such as food, tools or seed, tenants and sharecropper families often rely on the landowners for loans or other forms of advances. Such conditions lead to a high incidence of debt bondage.²⁷⁰

Children in rural areas, sometimes along with their entire families, are recruited in the farm sector to work in remote areas long distances from their home. Recruiters deceive the children and their families into believing that they will receive much higher wages and better conditions than those actually offered at the work site. Once at the work site, usually isolated and far from home, the workers are at the complete disposal of their employer. Deductions from wages for food and other necessities purchased at inflated prices from a "company store" lead to reliance on credit and a spiral of indebtedness.

In addition to reports of forced labor in South Asia's farming sector, there are situations of forced labor of children in the commercial fishing industries of Indonesia,²⁷¹ Sri Lanka,²⁷² the Philippines, India and Pakistan. Forced child labor in commercial agriculture also may be found in the harvesting of rattan in the Philippines, sugar cane and rubber in Brazil, and vegetables in Honduras and South Africa. These situations have been described in further detail in the first section of this report on the exploitation of child labor in commercial agriculture and fishing. The cases noted below occur on small-scale farms which are not known to export their products to the United States.

1. South Asia

²⁷⁰ *Children in Bondage: A Call for Action* at 7.

²⁷¹ Indonesia has ratified ILO Convention No. 29 Concerning Forced Labor; it has not ratified U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. According to the U.S. Department of State *Country Reports on Human Rights Practices for 1994*, Indonesian law forbids forced labor. *Country Reports* at 606.

²⁷² Sri Lanka has ratified both ILO Convention No. 29 Concerning Forced Labor, and the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. According to the U.S. Department of State *Country Reports on Human Rights Practices for 1994*, forced or bonded labor is prohibited under Sri Lankan law. *Country Reports* at 1267.

a. Small-scale farming

There are large numbers of children in bondage in small-scale agricultural operations in rural India, Pakistan and Nepal. The farm sector probably accounts for more bonded child laborers than any other sector in these still largely rural societies.

Bonded labor in the farm sector occurs when poor, landless peasants and tenant farmers have no choice but to turn to landlords for loans in the form of cash or food.²⁷³ In return, the peasants offer their labor and/or that of their children. The loans are taken to meet the cost of daily needs and for expenses occasioned by special events such as marriages and funerals.²⁷⁴ Instead of decreasing with the time worked, however, the loans often increase, and bondage becomes a way of life for generations.

Bonded children in farming in these countries perform jobs such as feeding, grazing and caring for animals, fetching water and firewood, tending crops, and selling vegetables. In addition, they often perform domestic duties for the landowner.

Debt bondage in farming is the most widespread form of forced labor in India.²⁷⁵ There is a startling variation among estimates of bonded child labor in the Indian farm sector. Official Government of India figures put the total number of bonded workers (children and adults) at 353,000,²⁷⁶ while NGO estimates range from 2.6 million (child and adult) bonded

²⁷³ See generally *Contemporary Forms of Slavery in Pakistan* at 10-11. See also *Children in Bondage: A Call for Action* at 7.

²⁷⁴ Manjari Dingwaney with Sunil Dogra, R. Vidyasagar, and Renu Gupta, *Children of Darkness: A Manual on Child Labor in India* (New Delhi: Rural Labor Cell, 1988) 17 [hereinafter Dingwaney et al].

²⁷⁵ Anti-Slavery Society, "Child Bonded Labor," in *Seminar on the Implementation of the Convention on the Rights of the Child* (International Commission of Jurists and Defense for Children International, September 24-28, 1990) 5 [hereinafter "Child Bonded Labor"].

²⁷⁶ *World Labor Report 1993* at 12.

workers²⁷⁷ to 15 million bonded child farm workers.²⁷⁸

Debt bondage in India, according to the Indian National Commission on Rural Labor, has its roots in rural, feudalistic and semi-feudalistic society, hierarchical social order, extreme poverty and ignorance.²⁷⁹ It is also closely linked to the Indian caste system. Bonded laborers are often members of the scheduled castes and tribes, which include the "untouchables" and other low-caste groups.²⁸⁰

In many cases bondage is intergenerational, with child bonded laborers replacing their fathers when the latter have become too old or too weak to work themselves.²⁸¹ The initial loans that form the basis for this intergenerational bondage are often quite small. However, the borrowing family, usually illiterate, is unable to understand interest calculations performed by the landlord. Written agreements are viewed as unnecessary, and interest rates can range to as high as 400 percent.²⁸²

Children as young as six are sometimes pledged by their parents to landlords as bonded laborers. In exchange for a loan, parents engage their sons, ranging in age from 10 to 14, as bonded laborers known as "Kuthias." The amount of the loan, ranging from 400 to 1000 rupees, depends on the age and health of the boy. Kuthias, who are considered to be in training to become adult bonded laborers, graze cattle and assist bonded adults with all other agricultural chores. Another type of child bonded laborer is the "Peyjoli"-- a child aged six to nine -- who, because of extreme poverty, is sold by his/her parents to a landlord for a yearly fee ranging from 100 to 400 rupees. Sometimes parents receive no payment at all, but consider themselves better off because they have one less mouth to feed.²⁸³ "Peyjoli" are at the complete disposal of their masters and do all types of jobs -- from collecting cow dung

²⁷⁷ *World Labor Report 1993* at 12. Survey conducted in 1979 by the Gandhi Peace Foundation and the National Labor Institute.

²⁷⁸ *Children in Bondage: Slaves of the Subcontinent* at 30.

²⁷⁹ *Children in Bondage: A Call for Action* at 6.

²⁸⁰ *Children in Bondage: Slaves of the Subcontinent* at 30; Dingwaney et al at 18; "Child Bonded Labor" at 5.

²⁸¹ *Born to Work* at 25 and 27.

²⁸² "Child Bonded Labour" at 6.

²⁸³ *India's Carpet Boys: A Pattern of Slavery* at 9.

to massaging their master. In return, they receive a bare minimum of food and lodging.²⁸⁴

Bonded child labor is especially widespread in certain areas of central India such as Bihar, Orissa and Andhra Pradesh. In some villages, landlords have been found to rely almost exclusively on child bonded labor.²⁸⁵

Bonded children are sometimes subjected to physical punishment and suffer from a high incidence of severe malnutrition, vitamin deficiency, anaemia, tuberculosis, and skin and parasitic diseases.²⁸⁶ They have no time for either leisure or education -- over 90 percent of bonded laborers in India, many of whom became bonded as children, have never had the opportunity to go to school.²⁸⁷

According to a 1979 survey on bonded labor in ten states of India, 30 percent of bonded families were obliged to send two or more family members into bondage. Over half of the loans were taken to meet basic needs of food, clothing and shelter, and the average loan amount was less than 30 dollars. In the central Indian state of Andhra Pradesh, almost 70 percent of bonded children did not receive wages; in the southern state of Tamil Nadu, 99 percent of children were not paid. The study concluded that for landlords and moneylenders, cheap labor provided by bonded laborers was actually more valuable than recovery of the original debt.²⁸⁸

In Nepal, bonded labor is rooted in feudalistic patterns of land ownership and

²⁸⁴ *Children in Bondage: Slaves of the Subcontinent* at 25. See also Rajendra K. Sail, "Agricultural Child Bonded Labourers of Chattisgarh," in *Into That Heaven of Freedom? Report of the South Asian Seminar on Child Servitude* (Bonded Labour Liberation Front of India, June 1989) 47.

²⁸⁵ Burra at 26; Dingwaney et. al. at 19.

²⁸⁶ "Child Bonded Labor" at 5. See also *Child Labor: a Threat to Health and Development* (Geneva: Defense for Children International, 1985) 30.

²⁸⁷ *Children in Bondage: Slaves of the Subcontinent* at 9; Sawyer at 64.

²⁸⁸ *Children in Bondage: Slaves of the Subcontinent* at 30-31, citing from Marla, Sarma, *Bonded Labor in India, National Survey on the Incidence of Bonded Labour* (New Delhi: Gandhi Peace Foundation, 1981).

poverty.²⁸⁹ In three districts of Western Nepal, which were the subject of a 1992 NGO survey of bonded labor in Nepal, it is estimated that there are approximately 25,000 families working as bonded laborers known as "Kamaiya."²⁹⁰ A recent news report in the *Rising Nepal* estimates that there are 55,000 bonded Kamaiya families in five districts of Western Nepal.²⁹¹ Most Kamaiya families are from economically marginalized and landless indigenous ethnic groups such as the Tharu.

A "Kamaiya" is an agricultural laborer who serves an employer, usually a landowner, under a one-year binding verbal contract. Literally, "Kamaiya" is defined as "a hard tiller of land, earner; manly or obedient person; one who earns along with his family in other's land by borrowing in cash or kind from the land owner or a peasant equivalent to him."²⁹² Kamaiya usually must resort to borrowing cash or food from the employer in order to maintain their families. In most cases, the employer assumes that the Kamaiya's family is also at his disposal to perform any task he commands. In a small percentage of cases, children themselves -- some below the age of ten -- are Kamaiya.²⁹³

The conditions of the Kamaiya's contract include a fixed amount of food, land, cash or other goods to be paid him; these, however, are usually not sufficient to provide even for basic subsistence. Kamaiyas who have children are provided with the same amount of food as those without children.²⁹⁴ In addition, the contract gives the master the option to fine the Kamaiya for each day of absence or for loss of or damage to tools. It also provides that the Kamaiya's wife and children will also work for the master but for no additional

²⁸⁹ Sattaur at 42-43.

²⁹⁰ *Country Reports* at 1244; *Bonded Labor in Nepal*, Anti-Slavery International submission to the U.N. Working Group on Contemporary Forms of Slavery, Eighteenth Session, 1993 [on file] [hereinafter 1993 ASI Submission on Nepal]. The 25,000 figure is derived from interviews with over 17,000 individuals conducted by the NGO Informal Sector Service Centre. See *Bonded Labor in Nepal under Kamaiya System* (Kathmandu: Informal Sector Service Centre, 1992) 50 [hereinafter *Bonded Labor in Nepal under Kamaiya System*].

²⁹¹ Letter from Child Welfare Society in Kathmandu to the International Child Labor Study (May 21, 1995) [on file] [hereinafter Child Welfare Society letter].

²⁹² *Bonded Labor in Nepal under Kamaiya System* at 34.

²⁹³ *Bonded Labor in Nepal under the Kamaiya System* at 50 and 53-54; Sattaur at 48.

²⁹⁴ *Bonded Labor in Nepal under Kamaiya System* at 46.

remuneration.²⁹⁵

The Kamaiya is not free to end his employment during the one-year period. Working days of 18 hours for Kamaiyas and 12 hours for their families are routine; there are no days off.²⁹⁶ Kamaiya are often subjected to beatings and their daughters to sexual abuse.²⁹⁷ Kamaiya and their families cultivate land, clean animal sheds, collect fuel and perform domestic chores in their masters' homes. Children sometimes herd buffalos or cows or perform domestic work for the master.²⁹⁸

Loans are a central feature for maintaining the Kamaiya system. Since Kamaiyas are generally not paid enough to meet their basic needs, many have no choice but to take loans from their master. Many also carry inherited debts, sometimes going back for three or four generations, in addition to their own.²⁹⁹ A Kamaiya burdened by debt must continue to work for the same landlord until the debt has been repaid. The Kamaiya remains bound to the landlord unless, at markets held each winter, the Kamaiya finds a new master to pay off his debt or the original master sells off the Kamaiya and his family to a new master.³⁰⁰ Debts tend to increase with time because of high interest charged, the master's dishonest bookkeeping, and fines charged to the Kamaiya for days absent.

Kamaiya and their families often remain in debt-bondage for their entire lives.³⁰¹ Some families have been indebted for such a long time that their indebtedness assumes a sense of normality in their minds:

²⁹⁵ 1993 ASI Submission on Nepal.

²⁹⁶ *Bonded Labor in Nepal under Kamaiya System* at 61.

²⁹⁷ Child Welfare Society letter; interview by U.S. Department of Labor official with Kiran Tewari, Secretary, Child Welfare Society, Kathmandu (April 6, 1995). *See also* 1993 ASI Submission on Nepal.

²⁹⁸ Sattaur at 47.

²⁹⁹ *Bonded Labour in Nepal Under the Kamaiya System* at 51-52.

³⁰⁰ Sometimes Kamaiya are separated from their children and wife in the process. *See* Child Welfare Society letter.

³⁰¹ *Bonded Labor in Nepal under Kamaiya System* at 49 and 53.

*Some families around Getta, to the north of Dhangadhi, have been kamaiya for so many generations that they do not know anything about the conditions of the original bondage. Though they do not know how their forefathers got into debt, they do know the amount of the debt, a fact which has been impressed upon them from birth.*³⁰²

In Pakistan, child bondage, under the system of advances known as "peshgi," is common in agriculture, particularly in Sindh and Punjab provinces.³⁰³ Bonded laborers are known in certain districts, as "gehna maklooq," or mortgaged creatures.³⁰⁴ According to a Government of Pakistan/UNICEF report:

*In some parts of the country, the feudal system is still going strong and whole families are in bondage, including the children who de facto 'belong' to the landlord to whom the families are indebted.*³⁰⁵

Bonded child laborers are reportedly used extensively as laborers on sugar cane and cotton farms.³⁰⁶

Tenant families often take loans out of necessity from their landlords during poor harvests or to pay for materials and other necessities.³⁰⁷ The debtor and/or the members of his family are bound to the creditor/employer as long as any portion of the debt remains

³⁰² Harold O. Sklar, *Nepal, Indigenous Issues and Civil Rights, The Plight of the Tana Tharu* (Norwegian Institute of International Affairs, 1991) cited in Sattaur at 47.

³⁰³ See *Children in Bondage: Slaves of the Subcontinent* at 18; Testimony of Human Rights Watch/Asia. See also *Contemporary Forms of Slavery in Pakistan* at 59 and 62-63.

³⁰⁴ *A Report by the Bonded Liberation Front of Pakistan*, report to the U.N. Working Group on Contemporary Forms of Slavery, Sixteenth Session, 1991.

³⁰⁵ *Discover the Working Child* at 20. The Human Rights Commission of Pakistan states that "entire families of farm workers are kept in bondage by feudals in Sindh." Letter to the International Child Labor Study from Zohra Yusuf, Secretary-General, Human Rights Commission of Pakistan (May 16, 1995) [on file].

³⁰⁶ Testimony of Human Rights Watch/Asia.

³⁰⁷ *Contemporary Forms of Slavery in Pakistan* 62-63.

outstanding.

Under this system, the children are expected to work although they receive no wages. Children working under such circumstances constitute an integral part of the country's agricultural work force. Their workload is regulated by demands of the landowner's overseer, "often with no consideration for the age of the child."³⁰⁸

Many forms of coercion are used by landlords to physically confine bonded laborers. Some even have private jails to confine workers. In 1991, the Pakistani army raided a private jail where a landlord was found to be illegally holding 295 peasants, 132 of which were children.³⁰⁹ The bonded laborers worked all day in the fields under supervision of armed guards and were confined at night in the jail, where they were chained with iron shackles. The only food they were given was flour and chili peppers; no plumbing facilities or medical care was provided. The local police were aware of the jail's existence, but because of their close relationship with the local landlord, they had taken no action to release the prisoners. Interviews indicate that while this case is one of the more notorious examples of illegal confinement, it is by no means an isolated incident.³¹⁰ Attempts at escape from bondage are often brutally punished.³¹¹

The Bonded Labor Liberation Front of Pakistan estimates that out of 20 million bonded laborers in Pakistan, 7.5 million are "children whose families are looked upon as slaves."³¹²

D. Service Sector and Illegal Economy

Largely hidden from public view, forced child labor in the informal service sector is widespread and includes the sex industry and domestic services. Sometimes parents knowingly sell their children into such work, while in other cases children are fraudulently

³⁰⁸ *Discover the Working Child* at 20.

³⁰⁹ *Contemporary Forms of Slavery in Pakistan* at 64.

³¹⁰ *See Contemporary Forms of Slavery in Pakistan* at 63-65.

³¹¹ *Contemporary Forms of Slavery in Pakistan* at 70.

³¹² *Children in Bondage: Slaves of the Subcontinent* at 18.

recruited or abducted. In still other cases, children -- often with their parents knowledge and acquiescence -- are enticed to seek employment as prostitutes or domestics. The children, however, rarely are aware of the conditions and treatment that await them.

The first part of this section focuses on child prostitution, the sexual exploitation of children for commercial purposes. The second part discusses the use of children as domestic servants. A final section reports on the trafficking of young boys to be used as camel jockeys in certain Gulf states.

1. The Sex Industry

Child prostitution is defined by the United Nations as "the sexual exploitation of a child for remuneration in cash or in kind, usually but not always organized by an intermediary (parent, family member, procurer, teacher, etc.)."³¹³ The sexual exploitation of children is considered to be one of the worst forms of child labor and a form of bonded labor.³¹⁴ Children who are sold, induced, tricked, or enticed into prostitution are too young to fully comprehend or consent to the acts that they are forced to perform.³¹⁵ Most countries have penal laws against such activity and consider sexual relations with a minor under 16 years of age to be statutory rape.³¹⁶

These children are in some cases taken far from their homes and held as virtual slaves,

³¹³ *Promotion and Protection of the Rights of Children: Sale of children, child prostitution and child pornography: Note by the Secretary-General, U.N. General Assembly, U.N. Doc. A/49/478, October 5, 1994, p.29.*

³¹⁴ *Children at Work* at 102. The Convention on the Rights of the Child, article 34, prohibits the sexual exploitation of children.

³¹⁵ See Kevin Ireland, 'Wish you Weren't Here:' *The Sexual Exploitation of Children and the Connection with Tourism and International Travel* (London: Save the Children Fund (UK), 1993) 3 [hereinafter Ireland]; *In the Twilight Zone: Child Workers in the Hotel, Tourism and Catering Industry* (Geneva: International Labor Organization, 1995) 5-6 [hereinafter *Twilight Zone*]. See also Ron O'Grady, *Ending the Prostitution of Asian Children* (Paper presented at the Tenth Annual Congress on Child Abuse and Neglect, Kuala Lumpur, September 11, 1994) 1 [on file] [hereinafter O'Grady].

³¹⁶ *Children at Work* at 104.

forcibly confined and abused into submission.³¹⁷ They are exposed to severe health risks, including HIV infection and AIDS, other sexually-transmitted diseases, and drug addiction, as well as sustained physical and psychological abuse.

The ILO expresses particular concern regarding the exploitation of children in the sex industry:

*One aspect of significant disquiet to the Committee relates to forced child labour, and particularly the exploitation of children for prostitution and pornography. This form of child labour is increasingly advertised outside the country in which it occurs and is therefore the subject of deliberate and increased exploitation by tourists and visitors from other countries. No longer is such exploitation of children a responsibility only of the country in which it occurs, it is an international responsibility.*³¹⁸

The term child prostitution generally refers to the prostitution of young (pre-pubescent) children and adolescents up to the ages of 15 to 18, depending on national laws.³¹⁹ Estimates of the numbers of child prostitutes vary widely. In Thailand, for example, estimates of the number of children and adolescents whose livelihood includes the sale of sexual services range from 2,500 up to 800,000.³²⁰ Similar discrepancies exist in the figures

³¹⁷ See *The Progress of Nations* (New York: UNICEF, 1995) 34 [hereinafter *Progress of Nations*].

³¹⁸ 1994 *Report of the Committee of Experts* at 28.

³¹⁹ *Twilight Zone* at 6.

³²⁰ *Twilight Zone* at 6. The ILO Committee of Experts notes that the Royal Thai Government estimates the number of child prostitutes to be 20,000 to 30,000. The Committee states that it "recalls that the Ministry of Health, Division of Venereal Diseases Control, reported in 1990 that child prostitutes numbered 86,000 and that data from the Police Department showed that around 160,000 prostitutes would be under 16. Given the number of children trafficked from neighboring countries, it is unlikely that these figures would have decreased since 1990." 1995 *Report of the Committee of Experts* at 114-15. UNICEF "guesstimates" that there are 100,000 child prostitutes in Thailand. *Progress of Nations* at 34. NGOs estimate the number of child prostitutes to be 200,000 - 800,000. See *Sex Tourism and Child Prostitution in Asia: Legal Responses and Strategies* (paper by Douglas Hodgson, Senior Lecturer in Law, The University of Western Australia, n.d.) 3 [on

commonly cited for other countries. It is generally accepted, however, that the number of children being forced or sold into the sex industry is "substantial and growing."³²¹

While it is believed that those under 15 make up a small minority of child prostitutes, some observers note a trend towards greater demand for ever younger children in the sex industry, particularly in Asia but also in Latin America.³²² This can at least partly be attributed to the perception that younger girls are less likely to carry the HIV virus. In some countries, including Thailand, Vietnam, Cambodia and India, there are brothels which specialize in the prostitution of young virgins.³²³ It is reported that the average age at which Nepali girls are recruited into Indian brothels has dropped from 16 to 14 since the 1980s.³²⁴ One report stated that of 100,000 estimated Nepali women and girl prostitutes in India, 20 percent are believed to be girls under 14 years of age.³²⁵ A book on girl children and family violence in India found that most girls in the red light districts of Bombay had been initiated

file] [hereinafter Hodgson]; *See also* O'Grady at 135; *Children at Work* at 102.

³²¹ *Twilight Zone* at 6-7. The Norwegian Government reported in 1989 to the European Ministers of Justice that one million children around the world are "kidnapped, bought or otherwise forced onto the market for sex" each year. This number has been called speculative by the ILO. *See* O'Grady at 135; *Twilight Zone* at 6.

³²² *Twilight Zone* at 7; S. Srobanke, "Child Prostitution in Thailand," in *Voices of Thai Women*, Issue 4 (Bangkok: ECPAT, 1990). *See also* Gilberto Dimenstein, "Little Girls of the Night," in *Disposable Children: The Hazards of Growing Up Poor in Latin America*, vol. XXVII, no. 6 (New York: North American Congress on Latin America, May/June 1994) 29-33 [hereinafter Dimenstein].

³²³ American Consulate-Chiang Mai, unclassified telegram no. 485, July 11, 1995 [hereinafter Chiang Mai 485]; Telephone interview by U.S. Department of Labor official with Mark Connolly, UNICEF (May 1995); Yayori Matsui, "Trafficking Children for Sexual Purposes in Asia," in *Stop Trafficking Children for Sexual Purposes: Report of the Consultation held in Taipei, June 1-3, 1994* (Taipei: ECPAT-Taiwan, 1994) 28-29 [hereinafter Matsui].

³²⁴ *Rape for Profit: Trafficking of Nepali Girls and Women to India's Brothels* (New York: Human Rights Watch/Asia, 1995) 13 [hereinafter *Rape for Profit*].

³²⁵ *UNICEF/APRO Paper for Country Planning and Programming* (UNICEF: January 1989) cited in *Children at Work* at 103.

into prostitution at the age of 12 or 13 years.³²⁶ In Brazil, the average age of child prostitutes is declining due to the increasing numbers of street children and the fact that by time they reach 18, prostitutes, plagued by various illnesses, are considered finished.³²⁷

The most commonly cited explanation for the subjection of children to prostitution is poverty. Poverty alone cannot, however, explain the increasing sexual exploitation of children.³²⁸ Another factor is the willingness of parents in some countries such as Thailand to sell their children into prostitution. While many parents sell their children because they are impoverished, one report estimated that one-third of transactions are motivated by the desire for consumer goods.³²⁹ Increasing urbanization, with poor families being forced to find a foothold in the modern cash economy, is another factor.³³⁰

The demand for child prostitutes can also be attributed in part to the rise in international sex tourism, with customers from developed countries exploiting children in developing countries.³³¹ In the sophisticated international business of prostitution, children are abducted, drugged and coerced by gangs and syndicates into prostitution both locally and across frontiers. They are sometimes killed or maimed in the process.³³² Girls from all over Southeast Asia, including Burma, Cambodia, China, Laos and Vietnam can now be found in the brothels of Thailand.

As a result of many international campaigns to bring a halt to the trafficking of children for the purposes of prostitution -- and highly-publicized cases of extreme physical abuse and death of child prostitutes at the hands of foreign tourists -- several industrialized countries, including Australia, Belgium, France, Germany, Norway, Sweden, New Zealand

³²⁶ "Abuse and Prostitution," *Deccan Herald* (Bangalore, India) September 10, 1993 in *My Name is Today, Children in News*, vol. 1, no. 2 at 120 [on file].

³²⁷ Dimenstein at 33.

³²⁸ *Sale of Children: Report submitted by Mr. Vitit Muntarbhorn, Special Rapporteur*, U.N. Commission on Human Rights, U.N. Doc. E/CN.4/1993/67, January 1993 at 26 [hereinafter 1993 Special Rapporteur Report].

³²⁹ Hodgson at 5.

³³⁰ *Twilight Zone* at 4.

³³¹ 1993 Special Rapporteur Report at 26.

³³² 1993 Special Rapporteur Report at 26-27.

and the United States have passed or revised laws which permit prosecution of their nationals for sexually exploiting children abroad.³³³

The clientele of the sex industry varies by location, and locals often make up a greater proportion of clients than do foreigners. In Thailand, for example, where patronizing prostitutes is considered by many to be socially acceptable,³³⁴ one study found that foreigners constituted less than 10 percent of the clients patronizing girl prostitutes. Western tourists were found to mainly frequent prostitutes over 18.³³⁵ An ILO study in Sri Lanka found that most customers were male foreign tourists. The same study found that in the Philippines and Mexico customers included both foreigners and nationals. In Kenya young boys on the beaches were found to service foreigners; young girls in the towns mainly serviced nationals.³³⁶ Several other studies conducted in the Philippines indicate that local people represent up to half of the clientele.³³⁷

As is the case for forced child labor in general, there are several paths by which children become prostitutes. The most exploitative situations often result from instances where children, usually girls, are deliberately tricked or kidnapped and sold into prostitution. These children are often trafficked from the countryside to larger urban areas. They are also trafficked across national borders. Some brothel owners actively seek children who come from long distances or other countries because they are the most powerless, dependent and least able to escape.³³⁸

In many cases children are promised jobs in restaurants or as domestic workers, but

³³³ *Twilight Zone* at 21; *Children at Work* at 108; *End Child Prostitution in Asian Tourism Newsletter*, no. 13 (August 1995) 3. For the United States, see 18 U.S.C. 2423(b). For Australia, see *International Child Labor Hearing*, U.S. Department of Labor (May 5, 1995) (Statement of the Government of Australia).

³³⁴ Chiang Mai 485; *The Thai Women of Tomorrow (TWT) Project* (Bangkok: February 1995)(mimeograph) [on file].

³³⁵ *Twilight Zone* at 8 and 20-21.

³³⁶ *Twilight Zone* at 22.

³³⁷ Ireland at 21.

³³⁸ *Twilight Zone* at 5.

find themselves instead forced to prostitute themselves. Thai non-governmental organizations estimate that as many as 10,000 Burmese women and girls, some as young as 13 years old, are illegally brought into Thailand each year by recruiters.³³⁹ Many are sold to brothel owners, with their selling prices -- ranging between \$400 and \$800 -- becoming their debt.³⁴⁰

In the Philippines, children aged 14 to 16 (but some younger) are tricked into prostitution after their parents sell them to recruiters promising jobs as domestics or sales clerks in the city.³⁴¹ Children of impoverished hill tribe families in northeastern Thailand are similarly tricked into prostitution by procurers promising restaurant, domestic or factory jobs, although in other cases parents knowingly sell their daughters into prostitution.³⁴² In Bangladesh, girls are lured by false promises of jobs or marriage and are then smuggled by middlemen into Pakistan where they are sold into prostitution.³⁴³ Sometimes they are drugged during the trip.³⁴⁴ In Brazil, girls between the age of 12 and 15 who have been promised employment in restaurants or shops are brought by plane or boat to brothels in remote mining encampments of the Amazonia region where they are sold to brothel owners and held as virtual slaves.³⁴⁵ Trafficking of young boys and girls from Mozambique to South

³³⁹ *A Modern Form of Slavery: Trafficking of Burmese Women and Girls into Brothels in Thailand*, (New York: Human Rights Watch/Asia and Human Rights Watch/Women's Rights Project, 1993) 1 [hereinafter *A Modern Form of Slavery*].

³⁴⁰ *A Modern Form of Slavery* at 3 and 54.

³⁴¹ Rialp at 10; *Comprehensive Study on Child Labor in the Philippines* (Manila: Institute for Labor Studies, Philippines Department of Labor and Employment, 1994) 52; Fyfe at 118-119.

³⁴² See Chiang Mai 485.

³⁴³ *Double Jeopardy: Police Abuse of Women in Pakistan* (New York: Human Rights Watch/Asia and Human Rights Watch/Women's Rights Project, 1992) 126-133 [hereinafter *Double Jeopardy*]. The Pakistani National Council for Social Welfare estimated in 1991 that 100 to 150 Bengali women and girls averaging age 15 are brought into Pakistan each month. *Id.*

³⁴⁴ *Double Jeopardy* at 126.

³⁴⁵ Dimenstein at 30; Sutton at 95.

Africa for sexual exploitation also occurs.³⁴⁶ In Nepal, the majority of girls who are forced into prostitution are enticed with promises of good jobs in Indian cities.³⁴⁷

Kidnapping is less common, but has been reported to occur in Nepal, where trafficking of girls as young as ten, particularly into India, is widely acknowledged.³⁴⁸ NGOs have reported that disappearances of children from villages (purportedly for prostitution) is on the increase.³⁴⁹ Sometimes friends or distant relatives pretend to arrange a marriage in another village but instead abduct the girl and send her to India.³⁵⁰

The victims of trafficking are often powerless to escape the situation. In cases where they have been taken into another country, they are isolated by language barriers and their illegal status.³⁵¹ In Thailand, girls brought from Burma and northern hill tribe villages are unable to read Thai. Most also do not have identity cards, making them illegal immigrants subject to arrest.³⁵²

Often, in Amazonia and Thailand, the girls are in debt from the moment they arrive -- from transport costs, payoffs to police or other officials, and fees paid to recruiters by brothel owners. Human Rights Watch/Asia found that Burmese girls recruited and sold to Thai

³⁴⁶ *Sale of Children, Child Prostitution and Child Pornography: Report submitted by Mr. Vitit Muntarbhorn, Special Rapporteur*, U.N. Commission on Human Rights, U.N. Doc. E/CN.4/1994/84, January 1994 at 38.

³⁴⁷ *A Report on Action Research on Girls in Especially Difficult Circumstances* (Kathmandu: Legal Research and Development Forum and UNICEF, 1995) 5 [hereinafter *Report on Girls in Especially Difficult Circumstances*].

³⁴⁸ *Country Reports* at 1243; John Ward Anderson, "Nepal's Shame, Girl-Trafficking Meets a Determined Roadblock," *The Washington Post*, April 14, 1995 [hereinafter Anderson article]; *Report on Action Research on Girls in Especially Difficult Circumstances* at 5.

³⁴⁹ *Child Network News* (Kathmandu: Children at Risk Network Group, January 1995) 1.

³⁵⁰ Sattaur at 60.

³⁵¹ *Progress of Nations* at 34.

³⁵² Chiang Mai 485.

brothels often had no idea of how large their debt was or how it had been calculated.³⁵³ Often the debt becomes impossible to pay off, as food, medicines and other expenses are deducted from pay.³⁵⁴ In many cases, money from customers goes directly to the brothel owner and the girls receive only a small percentage.

In the worst cases, the girls are literally trapped inside the brothels. In Ranong, Thailand, where a large number of Burmese child prostitutes are found, some brothels are surrounded by electrified barbed fences and armed guards.³⁵⁵ In Bombay's red light district, there is a specific area known as "the cages," where girls are displayed in caged window fronts.³⁵⁶ Nepalese girls in Indian brothels are sometimes physically confined for fear that they might escape.³⁵⁷

In some cases, children are compelled by their parents to engage in commercial sex, which may be seen as a good source of family income.³⁵⁸ In Thailand, for example, where daughters are traditionally considered to have a duty to help support their family, gaining income through the prostitution of one's daughter is not necessarily viewed as morally reprehensible.³⁵⁹ Parents who sell their daughters to procurers receive advances of approximately \$300 to \$1200 dollars.³⁶⁰ A high percentage of the victims come from the hill tribes in northern Thailand. Hill tribe people are not granted Thai citizenship and have limited educational and employment opportunities. It is estimated that in some northern Thai hill tribe villages, 60 to 70 percent of the girls aged 11 years and older are engaged in the sex

³⁵³ *A Modern Form of Slavery* at 54.

³⁵⁴ *See generally, A Modern Form of Slavery* at 53-59; Sutton at 94-103; and Dimenstein at 30.

³⁵⁵ *A Modern Form of Slavery* at 3.

³⁵⁶ Telephone interview by U.S. Department of Labor official with Mark Connolly, UNICEF (May 1995).

³⁵⁷ *Rape for Profit* at 40.

³⁵⁸ *Children at Work* at 73.

³⁵⁹ *Twilight Zone* at 30; Telephone interview by U.S. Department of Labor official with Mark Connolly, UNICEF (May 1995).

³⁶⁰ *Twilight Zone* at 30.

industry.³⁶¹ Some parents, particularly in villages that have no prior history of sending girls into prostitution, are deceived by the recruiters and do not know that their daughters are to be placed in the sex industry. But when they learn the truth, even such parents are sometimes impressed with their returning daughter's relative wealth and "worldliness."³⁶² There are reported cases from Thailand of parents pledging their daughters to procurers when the girls are still in elementary school.³⁶³ In other cases parents themselves bring their daughters to brothels.³⁶⁴

In Nepal, where the sale of a young woman can bring as much as ten years of income, parents or relatives are known to sell young girls into prostitution.³⁶⁵ In Sri Lanka, where child prostitutes are primarily young boys between 6 and 14 years old, parents sometimes condone the use of their sons for such activity.³⁶⁶ NGO workers operating in communities in the Philippines, where child prostitution is rampant, found that many families "wholeheartedly accepted" the situation of their children.³⁶⁷

Sometimes girls who are initially hired as waitresses, receptionists, hostesses or dancers are compelled into performing sexual services in addition to their normal duties.

³⁶¹ *Children at Work* at 127. See also Matsui at 30-31.

³⁶² Chiang Mai 485.

³⁶³ Matsui at 23; "Thailand School Girls Sold as Prostitutes," *The Statesman* (Calcutta), February 20, 1994 in *My Name is Today, Children in News*, vol. II, no. I (January-March 1994) 123.

³⁶⁴ *Twilight Zone* at 30.

³⁶⁵ *Country Reports* at 1243; Anderson article. See generally, *Rape for Profit*. See also *Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, Initial Reports of States Parties Due in 1992 - Nepal* (April 10, 1995), U.N. Doc. CRC/C/3/Add. 34, May 10, 1995, 69 [hereinafter *Nepal Report to the Committee on the Rights of the Child*].

³⁶⁶ "Sex Tourists Prey on Lanka's Children," *The Independent* (Bombay, India), January 21, 1994 in *My Name is Today, Children in News*, vol. II, no. I (New Delhi: Butterflies, January-March 1994) 48 [on file] [hereinafter *The Independent* article].

³⁶⁷ Ireland at 22.

*In those (establishments) which particularly cater for men seeking female (or male) sexual companionship, the pressure on young employees to engage in paid sex may be overwhelming, whatever the quoted terms of the original engagement.*³⁶⁸

An ILO study on child workers in the hotel, tourism and catering industry found that in both Acapulco and Manila there were informal routes for enticing children into providing sexual services. For example, in the Philippines, girls might move from waitress onto the "receptionist track" -- where the likelihood that they will become prostitutes is high.³⁶⁹ Sometimes waitresses and receptionists are paid according to the number of drinks they themselves consume; they are encouraged to become inebriated with the hope that they will be more acquiescent to customers' suggestions regarding sexual acts.³⁷⁰

In countries such as India, Nepal and Ghana,³⁷¹ parents are reported to dedicate their young daughters, once they reach puberty, to serve religious or ritualistic purposes in temples or shrines. This practice, rooted in traditional society, often degenerates into sexual exploitation, whereby the girls are kept as virtual sex slaves.³⁷² In Ghana's eastern Volta region, for example, under the "tro-kosi" (i.e., vestal virgin) system, young girls, usually under ten years of age, become virtual slaves to a fetish shrine and its priest to atone for an

³⁶⁸ *Twilight Zone* at 5.

³⁶⁹ *Twilight Zone* at 47.

³⁷⁰ *Twilight Zone* at 43.

³⁷¹ Ghana has ratified both ILO Convention No. 29 Concerning Forced Labor, and the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. According to the U.S. Department of State *Country Reports on Human Rights Practices for 1994*, Ghanaian law prohibits forced labor. *Country Reports* at 104.

³⁷² For more information, see *Ritual Slavery: The Sexual Exploitation of the Devadasis* (India) [hereinafter *Ritual Slavery: The Sexual Exploitation of the Devadasis*] and *Fetish Slaves* (Ghana) [hereinafter *Fetish Slaves*], Anti-Slavery International submissions to the U.N. Working Group on Contemporary Forms of Slavery, Twentieth Session, April 1995 [on file]. On Nepal, see *Country Reports* at 1243 and Anderson article. On Ghana, see also *Country Reports* at 104.

alleged crime of a family member.³⁷³ In Nepal, girls are bought by the temple from a poor family; these girls cannot marry and often engage in prostitution ofr economic support.³⁷⁴ The daughters of these girls are also pushed into the flesh trade.³⁷⁵ In India, it is estimated that 10,000 young girls are dedicated each year to become "devadasi" (i.e, ritual slaves of a god) in temples. The girls, once they reach puberty, are auctioned off to the highest bidder, who retains the right to deflower them. Sometimes they are auctioned directly to procurers for brothels. The dedication of children to become Devadasis invariably leads to 'a life of prostitution' and sexual exploitation within their communities or in urban brothels.³⁷⁶

Child prostitutes are subjected to many types of physical and emotional trauma, violence and abuse. They are sometimes brutally raped or beaten into submission and subjected to sadistic treatment by customers.³⁷⁷ In one case, a young Chinese girl who had been trafficked into Thailand was beaten to death in a brothel in Chiang Mai.³⁷⁸ Young prostitutes in mining encampments in Amazonia who refuse a customer or attempt to escape are beaten, tortured, and in some cases killed.³⁷⁹

Young teenagers also face the risk of pregnancy. Over one hundred thousand maternal deaths occur each year among adolescents, many from abortions done by primitive

³⁷³ *Country Reports* at 104; *Fetish Slaves*.

³⁷⁴ *Nepal Report to the Committee on the Rights of the Child* at 67-68.

³⁷⁵ *Id.*

³⁷⁶ *Ritual Slavery: The Sexual Exploitation of the Devadasis*.

³⁷⁷ Testimony of Kailash Satyarthi, Anti-Slavery International submission to the U.N. Working Group on Contemporary Forms of Slavery, Sixteenth Session (July-August 1991); *Comprehensive Study on Child Labor in the Philippines* (Manila: Institute for Labor Studies, Philippines Department of Labor and Employment, 1994) 45; *Rape for Profit* at 35; Anderson article. *See also* Richard S. Ehrlich, "On the Streets of Bangkok," *Freedom Review* (September-October 1994) 7.

³⁷⁸ "Chinese Girls Being Lured into Thai Brothels," *The Statesman* (New Delhi), May 5, 1993, *cited in My Name is Today*, vol. 1, no. 1 (New Delhi: Butterflies, n.d.) 94-95.

³⁷⁹ Sutton at 97-98; Dimenstein at 32.

methods.³⁸⁰ Young prostitutes are subjected to abortions using methods such as blows to the abdomen, knitting needles or inappropriate medicine.³⁸¹

Child prostitutes are constantly at risk from exposure to harmful contagious diseases, including sexually-transmitted diseases and AIDS. In Thailand, HIV infection has already reached alarming proportions among young prostitutes. One study found that approximately one-third of children involved in prostitution in Thailand are HIV positive,³⁸² while other reports indicate that 60 to 70 percent of girls in Thai brothels are HIV infected.³⁸³ Despite the threat of AIDS, many girls do not understand the disease or how it is transmitted.

Drug abuse is another risk associated with prostitution.³⁸⁴ Some children resort to drugs as a way to block out their personal pain. Drugs are often deducted from their wages.³⁸⁵ An ILO study in Sri Lanka found that 6 out of 52 boy prostitutes were drug addicts; they had apparently been initiated to drugs by foreign tourists.³⁸⁶

2. Domestic Services

The use of domestic servants in the homes of middle and upper-class families is probably the most widespread form of forced child labor. It is a commonplace and widely-accepted practice throughout Asia, the Americas, and Africa. Because many child domestics work and live within the confines of private homes, they are perhaps the most invisible of all child workers.³⁸⁷ While there are no reliable national or international figures on the number of children engaged in domestic services, the figure is estimated to be in the millions

³⁸⁰ *Twilight Zone* at 51.

³⁸¹ Dimenstein at 32.

³⁸² *Progress of Nations* at 34.

³⁸³ *Children at Work* at 64.

³⁸⁴ *Twilight Zone* at 50-51.

³⁸⁵ Telephone interview by U.S. Department of Labor official with Mark Connolly, UNICEF (May 1995).

³⁸⁶ *Twilight Zone* at 50-51.

³⁸⁷ Fyfe at 113.

worldwide and possibly on the increase.³⁸⁸

In many countries poor families traditionally sent their children to live in the home of a better-off relative. There, while receiving beneficial training, they were treated as family members and assumed the same kinds of chores and responsibilities as the children of their host family. The current situation is drastically different. The procurement of young child domestic workers has become, in many countries, commercialized and highly exploitative, even where "relatives" are involved:

*Previous perceptions that domestic servants worked in a protected environment are changing as more information reveals that this group of children may be seriously abused. These children are the most vulnerable, exploited and difficult to protect because of their young age, their sex (most are girls), and their confinement in the household with very little contact with the outside world.*³⁸⁹

Children, usually girls from poor, rural families and sometimes as young as six to ten years old, may be recruited by a special agency, placed by a friend or acquaintance, sent by their parents, adopted or kidnapped. In Nepal, the Côte D'Ivoire,³⁹⁰ and India, for example, child domestic workers are often recruited by brokers or agents.³⁹¹ In Syria, poor families

³⁸⁸ *Children at Work* at 115.

³⁸⁹ *Children at Work* at 115. See also Fyfe at 113; *Child Domestic Workers in West Africa*, Anti-Slavery International submission to the U.N. Working Group on Contemporary Forms of Slavery, Twentieth Session, April 1995 [on file]; S.W.E. Goonesekere, *Child Labour in Sri Lanka: Learning From the Past* (Geneva: International Labor Organization, 1993) 11 [hereinafter Goonesekere].

³⁹⁰ The Côte D'Ivoire has ratified both ILO Convention No. 29 Concerning Forced Labor, and the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. According to the U.S. Department of State *Country Reports on Human Rights Practices for 1994*, forced labor is prohibited by law in the Côte D'Ivoire. *Country Reports* at 64.

³⁹¹ Sattaur at 54; Interview by Department of Labor official with Ms. Mahoua Coulibaly and Ms. Lucie Coulibaly of LIDHO (Ivoirian League for Human Rights), Abidjan, June 2, 1994; "At the Mercy of Dreadful Homes," *The Statesman* (Calcutta), June 7, 1993, in *My Name is Today*, vol.1, no. 1 (New Delhi: Butterflies, n.d.) 82.

from rural areas place their daughters and in return receive a cash advance, sometimes equivalent to a year's salary.³⁹² In Brazil, there are cases where child domestics are compelled to work -- often in the homes of fictitious relatives -- in order to pay off a debt incurred by a parent.³⁹³ In Morocco,³⁹⁴ orphanages are party to the practice of adoptive servitude, in which families adopt young girls who perform the duties of domestic servants in their new homes.³⁹⁵

In Sudan,³⁹⁶ militias from the north kidnap children in the course of conducting raids on tribal communities in the south of the country.³⁹⁷ Kidnapped children are considered by some militia members to be legitimate war booty in the ongoing civil war.³⁹⁸ The children, some as young as seven, are transported to the north where the militias either keep them for their own use or sell them (for approximately \$30 to \$60 dollars each) into domestic

³⁹² American Embassy-Damascus, unclassified telegram no. 1578, April 21, 1995.

³⁹³ Fyfe at 114.

³⁹⁴ Morocco has ratified both ILO Convention No. 29 Concerning Forced Labor, and the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. According to the U.S. Department of State *Country Reports on Human Rights Practices for 1994*, ILO Convention No. 29 was adopted by decree and thus forced labor is prohibited under Moroccan law. *Country Reports* at 1153.

³⁹⁵ *Country Reports* at 1152.

³⁹⁶ Sudan has ratified ILO Convention No. 29 Concerning Forced Labor and the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. According to the U.S. Department of State *Country Reports on Human Rights Practices for 1994*, Sudanese law prohibits forced or compulsory labor. *Country Reports* at 253.

³⁹⁷ Shyam Bhatia, "Sudan Revives the Slave Trade," in *Sudan Human Rights Voice*, vol. 4, issue 3 (March 1995) 4 [on file] [hereinafter *Sudan Human Rights Voice* article]; *Sudan: War, Slavery and Children*, Anti-Slavery International submission to the U.N. Working Group on Contemporary Forms of Slavery, Seventeenth Session, 1992 [on file].

³⁹⁸ *The Tears of Orphans: No Future Without Human Rights* (New York: Amnesty International, 1995) 76-77 [hereinafter *The Tears of Orphans*]; *World Labor Report 1993* at 11.

slavery.³⁹⁹ According to the United Nations Special Rapporteur on Sudan, the kidnapping and selling of Sudanese children seems to be an organized and politically motivated practice.⁴⁰⁰

Child domestic workers who live with their employer families are often subjected to horrendous working conditions, extended work hours, and physical and sexual abuse. They often wake up at dawn and do not go to sleep until after the rest of the family has retired. They often work seven days a week with no holidays and little leisure time or rest. Many are illiterate, and most are not permitted to go to school. In Benin,⁴⁰¹ for example, one recent study indicated that as many as 90 percent of child domestic workers, most of whom are under 14, do not attend school.⁴⁰²

The daily tasks that child domestics are expected to perform are labor intensive and often well beyond their physical capacity. Their work includes cleaning, washing, wiping and polishing floors, cooking, shopping, taking care of younger children, tending the garden and taking care of animals or pets. They are often isolated from other children and deprived of human contact and affection.⁴⁰³ In some cases they are locked up while their employers are out. In addition, they are separated from their families for long periods of time and often not allowed visits.

Child domestic workers are usually paid little if anything; often their only

³⁹⁹ *World Labor Report* at 11.

⁴⁰⁰ *1994 Report of the Committee of Experts* at 131, citing report of the U.N. Commission on Human Rights Special Rapporteur on Sudan, February 1994 (U.N. Doc. E/CN.4/1994/48).

⁴⁰¹ Benin has ratified ILO Convention No. 29 Concerning Forced Labor; it has not ratified the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. According to the U.S. Department of State *Country Reports on Human Rights Practices for 1994*, the labor code prohibits forced or compulsory labor. *Country Reports* at 12.

⁴⁰² Letter from the Benin Commission on Human Rights to the International Child Labor Study (April 10, 1995) [on file].

⁴⁰³ Testimony of WAO-Afrique, Anti-Slavery International submission to the U.N. Working Group on Contemporary Forms of Slavery, Twentieth Session, April 1995 [on file].

remuneration is food and lodging. They eat after the rest of the family, and their meals, which are often provided irregularly, generally consist of whatever leftovers remain. Employers rarely provide for medical care and often attempt to medically treat child domestics at home.⁴⁰⁴

The accommodations for child domestics are generally unpleasant. In Haiti,⁴⁰⁵ child domestic workers, referred to as "restaveks," are sometimes housed in a separate shed.⁴⁰⁶ In India, child domestic workers are often left to sleep in the bathroom, terrace, balcony or open courtyard and generally are not given bedding.⁴⁰⁷ In other cases, such as in Lesotho, they sometimes sleep without proper bedding in the same room as the children of their employers.⁴⁰⁸

Child domestic workers are often verbally or physically abused or sexually exploited. A study on the situation of child domestic servants in Bangladesh states that they are the recipient of abuses "at the smallest pretext" and live under the constant threat of being thrown out to a vagrant life on the streets.⁴⁰⁹ In Sudan, there are reports of children being beaten and branded;⁴¹⁰ one young boy describes how his master punished children trying to

⁴⁰⁴ Helen Rahman, *Situation of Child Domestic Services* (Dhaka, study commissioned by UNICEF/Dhaka, 1992) 12 [on file] [hereinafter Rahman].

⁴⁰⁵ Haiti has ratified both ILO Convention No. 29 Concerning Forced Labor, and the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. According to the U.S. Department of State *Country Reports on Human Rights Practices for 1994*, the Labor Code prohibits forced or compulsory labor. *Country Reports* at 430.

⁴⁰⁶ *1994 Report of the Committee of Experts* at 104 citing Minnesota Lawyers International Human Rights Committee submission to the U.N. Working Group on Contemporary Forms of Slavery, August 1989.

⁴⁰⁷ "At the Mercy of Dreadful Homes," *The Statesman* (Calcutta), June 7, 1993, cited in *My Name is Today*, vol. 1, no. 1 (New Delhi: Butterflies, n.d.) 82-83.

⁴⁰⁸ *The Situation of Women and Children in Lesotho 1991*, (New York: UNICEF and the Lesotho Ministry of Planning, Economic and Manpower Development, 1991) 129 [on file].

⁴⁰⁹ Rahman at 10.

⁴¹⁰ *Sudan Human Rights Voice* article at 4-5;

escape by cutting their achilles tendons.⁴¹¹ In Haiti, the Ministry of Social Affairs has estimated that about one-fifth of "restaveks" are badly mistreated. Some are sexually abused.⁴¹² The ILO has noted that the Police Department in Sri Lanka has received over 1000 complaints during the past few years involving the inhumane treatment of child domestics.⁴¹³ Cases of such abuse in Sri Lanka have involved children being starved, battered, burned or tortured to death.⁴¹⁴ In Morocco, several cases involving the physical abuse of child domestics by their employers were brought before Moroccan courts in 1994. The girls had suffered severe beatings, torture and starvation. One had died from her wounds.⁴¹⁵

3. Camel Jockeys

Camel racing is a popular sport in the Persian Gulf States, including the United Arab Emirates (UAE). Many children -- particularly from South Asia -- are reported to be employed as camel jockeys.⁴¹⁶ In 1993, the Government of the UAE prohibited the employment of children as camel jockeys and the use of jockeys weighing less than 45 kilograms.⁴¹⁷ The Camel Racing Association of the UAE enforces these rules.⁴¹⁸ The Indian, Pakistani, and Sri Lankan embassies in the UAE report no recent complaints of child abuse

⁴¹¹ *Human Rights Report Sudan 1995* [video] (Washington: The Puebla Institute, 1995) [on file].

⁴¹² American Embassy-Port-au-Prince, unclassified telegram no. 3579, May 20, 1995.

⁴¹³ *1994 Report of the Committee of Experts* at 128.

⁴¹⁴ Goonesekere at 111.

⁴¹⁵ *Country Reports on Human Rights Practices for 1993* (U.S. Department of State, February 1994) 1257.

⁴¹⁶ Mohammed Hanif, "Camel Kids are Still Riding," *Anti-Slavery Reporter* (London: Anti-Slavery International, 1994) 72-75 [hereinafter Hanif].

⁴¹⁷ *Country Reports 1994* at 1192.

⁴¹⁸ *Country Reports 1994* at 1192.

lined to camel racing since the 1993 prohibition.⁴¹⁹

Some reports persist that young boys between four and ten years of age have reportedly been abducted or recruited from countries such as Bangladesh, India, Sri Lanka, Pakistan and Mauritania are smuggled into the Gulf States to work as camel jockeys.⁴²⁰ Parents are sometimes promised that their children will be employed as companions for children of wealthy families or will take part in ceremonial events.⁴²¹ Organized recruitment networks falsify immigration documents and escort the young boys across borders.⁴²²

Young boys are preferred because they are light and their cries propel the camel to run faster.⁴²³ Some reports cite repeated accidents, including deaths, prompted camel owners to strap the boys to the backs of the camels.⁴²⁴ Sometimes the boys are glued onto the camels.⁴²⁵ The ropes that are used to bind the children to the camel sometimes become loose, and the boys can be thrown off the camel or dragged between the camel's legs over stones and sand.⁴²⁶ The boys are often underfed so as to reduce the burden on the camel and are sometimes subjected to bullying and physical harassment.⁴²⁷

⁴¹⁹ Unclassified memorandum from U.S. Department of State, Bureau of Near Eastern and Arabian Peninsula Affairs, to the International Child Labor Study (August 31, 1995).

⁴²⁰ *Newsletter of Women and Children International* (Dedham, Massachusetts: Women and Children International, n.d.) [on file].

⁴²¹ Goonesekere at 16.

⁴²² Goonesekere at 16. *See also* "Children sold as Camel Jockeys to the Emirs," *Journal de Genève*, January 26, 1995.

⁴²³ Goonesekere at 17.

⁴²⁴ "Camel Jockeys are Coming Home, but..." in *Shishu Adhikar Newsletter on the Rights of the Child*, vol. 1, no. 3 (Dhaka: Shishu Adhikar, May 1993) 1 [on file].

⁴²⁵ Goonesekere at 17.

⁴²⁶ "The Cruel Fate of Camel Jockeys" (editorial), *Boston Globe*, July 14, 1992.

⁴²⁷ Hanif at 74; Goonesekere at 17.

V. Appendices

Appendix A: ILO Convention 138

***International Labor Organization
C138 Convention Concerning Minimum Age
for Admission to Employment, 1973***

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 this instrument shall take the form of an international Convention,

adopts the 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 t h e 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 should 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.

Appendix B: ILO Recommendation No. 146

ILO Recommendation No. 146
Recommendation Concerning Minimum Age for Admission to Employment

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 Fifty-eighth Session on 6 June 1973, and

Recognizing 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 Organization, 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 programs 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 appropriate facilities for education and vocational orientation and training appropriate in form and content to the needs of children and young persons concerned;
- (e) the development and progressive extension of adequate 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 programs 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 jeopardize 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 ionizing 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 licenses or other documents indicating their eligibility for such work.

Appendix C: ILO Convention 29

***International Labour Organization
C29 Convention Concerning Forced or Compulsory Labour, 1930***

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 Fourteenth Session on 10 June 1930, and

Having decided upon the adoption of certain proposals with regard to forced or compulsory labour, which is included in the first item on the agenda of the Session, and

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

adopts this twenty-eighth day of June of the year one thousand nine hundred and thirty the following Convention, which may be cited as the Forced Labour Convention, 1930, for ratification by the Members of the International Labour Organization in accordance with the provisions of the Constitution of the International Labour Organization:

Article 1

1. Each Member of the International Labour Organization which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.
2. With a view to this complete suppression, recourse to forced or compulsory labour may be had, during the transitional period, for public purposes only and as an exceptional measure, subject to the conditions and guarantees hereinafter provided.
3. At the expiration of a period of five years after the coming into force of this Convention, and when the Governing Body of the International Labour Office prepares the report provided for in Article 31 below, the said Governing Body shall consider the

possibility of the suppression of forced or compulsory labour in all its forms without a further transitional period and desirability of placing this question on the agenda of the Conference.

Article 2

1. For the purposes of this Convention the term "forced or compulsory labour" shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.
2. Nevertheless, for the purposes of this Convention, the term "forced or compulsory labour" shall not include;
 - (a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
 - (b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
 - (c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;
 - (d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;
 - (e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

Article 3

For the purposes of this Convention the term "competent authority" shall mean either an authority of the metropolitan country or the highest central authority in the territory concerned.

Article 4

1. The competent authority shall not impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies or associations.
2. Where such forced or compulsory labour for the benefit of private individuals, companies or associations exists at the date on which a Member's ratification of this Convention is registered by the Director-General of the International Labour Office, the Member shall completely suppress such forced or compulsory labour from the date on which this Convention comes into force for that Member.

Article 5

1. No concession granted to private individuals, companies or associations shall involve any form of forced or compulsory labour for the production or the collection of products which such private individuals, companies or associations utilize or in which they trade.
2. Where concessions exist containing provisions involving such forced or compulsory labour, such provisions shall be rescinded as soon as possible, in order to comply with Article 1 of this Convention.

Article 6

Officials of the administration, even when they have the duty of encouraging the populations under their charge to engage in some form of labour, shall not put constraint upon the said populations or upon any individual members thereof to work for private individuals, companies or associations.

Article 7

1. Chiefs who do not exercise administrative functions shall not have recourse to forced or compulsory labour.

2. Chiefs who exercise administrative functions may with the express permission of the competent authority, have recourse to forced or compulsory labour, subject to the provisions of Article 10 of this Convention.

3. Chiefs who are duly recognized and who do not receive adequate remuneration in other forms may have the enjoyment of personal services, subject to due regulation and provided that all necessary measures are taken to prevent abuses.

Article 8

1. The responsibility for every decision to have recourse to forced or compulsory labor shall rest with the highest civil authority in the territory concerned.

2. Nevertheless, that authority may delegate powers to the highest local authorities to exact forced or compulsory labour which does not involve the removal of the workers from their place of habitual residence. That authority may also delegate, for such periods and subject to such conditions as may be laid down in the regulations provided for in Article 23 of this Convention, powers to the highest local authorities to exact forced or compulsory labour which involves the removal of the workers from their place of habitual residence for the purpose of facilitating the movement of officials of the administration, when on duty, and for the transport of government stores.

Article 9

Except as otherwise provided for in Article 10 of this Convention, any authority competent to exact forced or compulsory labour shall, before deciding to have recourse to such labour, satisfy itself:

- (a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;
- (b) that the work or service is of present or imminent necessity;
- (c) that it has been impossible to obtain voluntary labour for carrying out the work or rendering the service by the offer of rates of wages and conditions of labour not less favorably than those prevailing in the area concerned for similar work or service; and
- (d) that the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work.

Article 10

1. Forced or compulsory labour exacted as a tax and forced or compulsory labour to which recourse is had for the execution of public works by chiefs who exercise administrative functions shall be progressively abolished.
2. Meanwhile, where forced or compulsory labour is exacted as a tax, and where recourse is had to forced or compulsory labour for the execution of public works by chiefs who exercise administrative functions, the authority concerned shall first satisfy itself:
 - (a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;
 - (b) that the work or the service is of present or imminent necessity;
 - (c) that the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work;
 - (d) that the work or service will not entail the removal of the workers from their place of habitual residence;
 - (e) that the execution of the work or the rendering of the service will be directed in accordance with the exigencies of religion, social life and agriculture.

Article 11

1. Only adult able-bodied males who are of an apparent age of not less than 18 and not more than 45 years may be called upon for forced or compulsory labour. Except in respect of the kinds of labour provided for in Article 10 of this Convention, the following limitations and conditions shall apply:
 - (a) whenever possible prior determination by a medical officer appointed by the administration that the persons concerned are not suffering from any infectious or contagious disease and that they are physically fit for the work required and for the conditions under which it is to be carried out;
 - (b) exemption of school teachers and pupils and of officials of the administration in general;

(c) the maintenance in each community of the number of adult able-bodied men indispensable for family and social life;

(d) respect for conjugal and family ties.

2. For the purposes of subparagraph (c) of the preceding paragraph, the regulations provided for in Article 23 of this Convention shall fix the proportion of the resident adult able-bodied males who may be taken at any one time for forced or compulsory labour, provided always that this proportion shall in no case exceed 25 per cent. In fixing this proportion the competent authority shall take account of the density of the population, of its social and physical development, of the seasons, and of the work which must be done by the persons concerned on their own behalf in their locality, and, generally, shall have regard to the economic and social necessities of the normal life of the community concerned.

Article 12

1. The maximum period for which any person may be taken for forced or compulsory labour of all kinds in any one period of 12 months shall not exceed 60 days, including the time spent in going to and from the place of work.

2. Every person from whom forced or compulsory labour is exacted shall be furnished with a certificate indicating the periods of such labour which he has completed.

Article 13

1. The normal working hours of any person from whom forced or compulsory labour is exacted shall be the same as those prevailing in the case of voluntary labour, and the hours worked in excess of the normal working hours shall be remunerated at the rates prevailing in the case of overtime for voluntary labour.

2. A weekly day of rest shall be granted to all persons from whom forced or compulsory labour of any kind is exacted and this day shall coincide as far as possible with the day fixed by tradition or custom in the territories or regions concerned.

Article 14

1. With the exception of the forced or compulsory labour provided for in Article 10 of this Convention, forced or compulsory labour of all kinds shall be remunerated in cash at rates not less than those prevailing for similar kinds of work either in the district in which the labour is employed or in the district from which the labour is recruited, whichever may

be the higher.

2. In the case of labour to which recourse is had by chiefs in the exercise of their administrative functions, payment of wages in accordance with the provisions of the preceding paragraph shall be introduced as soon as possible.

3. The wages shall be paid to each worker individually and not to his tribal chief or to any other authority.

4. For the purpose of payment of wages the days spent in travelling to and from the place of work shall be counted as working days.

5. Nothing in this Article shall prevent ordinary rations being given as a part of wages, such rations to be at least equivalent in value to the money payment they are taken to represent, but deductions from wages shall not be made either for the payment of taxes or for special food, clothing or accommodation supplied to a worker for the purpose of maintaining him in a fit condition to carry on his work under the special conditions of any employment, or for the supply of tools.

Article 15

1. Any laws or regulations relating to workmen's compensation for accidents or sickness arising out of the employment of the worker and any laws or regulations providing compensation for the dependents of deceased or incapacitated workers which are or shall be in force in the territory concerned shall be equally applicable to persons from whom forced or compulsory labour is exacted and to voluntary workers.

2. In any case it shall be an obligation on any authority employing any worker on forced or compulsory labour to ensure the subsistence of any such worker who, by accident or sickness arising out of his employment, is rendered wholly or partially incapable of providing for himself, and to take measures to ensure the maintenance of any persons actually dependent upon such a worker in the event of his incapacity or decease arising out of his employment.

Article 16

1. Except in cases of special necessity, persons from whom forced or compulsory labour is exacted shall not be transferred to districts where the food and climate differ so considerably from those to which they have been accustomed as to endanger their health.

2. In no case shall the transfer of such workers be permitted unless all measures relating to hygiene and accommodation which are necessary to adapt such workers to the conditions and to safeguard their health can be strictly applied.
3. When such transfer cannot be avoided, measures of gradual habituation to the new conditions of diet and of climate shall be adopted on competent medical advice.
4. In cases where such workers are required to perform regular work to which they are not accustomed, measures shall be taken to ensure their habituation to it, especially as regards progressive training, the hours of work and the provision of rest intervals, and any increase or amelioration of diet which may be necessary.

Article 17

Before permitting recourse to forced or compulsory labour for works of construction or maintenance which entail the workers remaining at the workplace for considerable periods, the competent authority shall satisfy itself;

- (1) that all necessary measures are taken to safeguard the health of the workers and to guarantee the necessary medical care, and, in particular, (a) that the workers are medically examined before commencing the work and at fixed intervals during the period of service, (b) that there is an adequate medical staff, provided with the dispensaries, infirmaries, hospitals and equipment necessary to meet all requirements, and (c) that the sanitary conditions of the workplaces, the supply of drinking water, food, fuel, and cooking utensils, and, where necessary, of housing and clothing, are satisfactory;
- (2) that definite arrangements are made to ensure the subsistence of the families of the workers, in particular by facilitating the remittance, by a safe method, of part of the wages to the family, at the request or with the consent of the workers;
- (3) that the journeys of the workers to and from the workplaces are made at the expense and under the responsibility of the administration, which shall facilitate such journeys by making the fullest use of all available means of transport;
- (4) that, in case of illness or accident causing incapacity to work of a certain duration, the worker is repatriated at the expense of the administration;
- (5) that any worker who may wish to remain as a voluntary worker at the end of his period of forced or compulsory labour is permitted to do so without, for a period of two

years, losing his right to repatriation free of expense to himself.

Article 18

1. Forced or compulsory labour for the transport of persons or goods, such as the labour of porters or boatmen, shall be abolished within the shortest possible period. Meanwhile the competent authority shall promulgate regulations determining, inter alia, (a) that such labour shall only be employed for the purpose of facilitating the movement of officials of the administration, when on duty, or for the transport of government stores, or, in cases of very urgent necessity, the transport of persons other than officials, (b) that the workers so employed shall be medically certified to be physically fit, where medical examination is possible, and that where such medical examination is not practicable the person employing such workers shall be held responsible for ensuring that they are physically fit and not suffering from any infectious or contagious disease, (c) the maximum load which these workers may carry, (d) the maximum distance from their homes to which they may be taken, (e) the maximum number of days per month or other period for which they may be taken, including the days spent in returning to their homes, and (f) the persons entitled to demand this form of forced or compulsory labour and the extent to which they are entitled to demand it.

2. In fixing the maxima referred to under (c), (d) and (e) in the foregoing paragraph, the competent authority shall have regard to all relevant factors, including the physical development of the population from which the workers are recruited, the nature of the country through which they must travel and the climatic conditions.

3. The competent authority shall further provide that the normal daily journey of such workers shall not exceed a distance corresponding to an average working day of eight hours, it being understood that account shall be taken not only of the weight to be carried and the distance to be covered, but also of the nature of the road, the season and all other relevant factors, and that, where hours of journey in excess of the normal daily journey are exacted, they shall be remunerated at rates higher than the normal rates.

Article 19

1. The competent authority shall only authorize recourse to compulsory cultivation as a method of precaution against famine or a deficiency of food supplies and always under the condition that the food or produce shall remain the property of the individuals or the community producing it.

2. Nothing in this Article shall be construed as abrogating the obligation on members of a community, where production is organized on a communal basis by virtue of law or custom and where the produce or any profit accruing from the sale thereof remain the property of the community, to perform the work demanded by the community by virtue of law or custom.

Article 20

Collective punishment laws under which a community may be punished for crimes committed by any of its members shall not contain provisions for forced or compulsory labour by the community as one of the methods of punishment.

Article 21

Forced or compulsory labour shall not be used for work underground in mines.

Article 22

The annual reports that Members which ratify this Convention agree to make to the International Labour Office, pursuant to the provisions of Article 22 of the Constitution of the International Labour Organization, on the measures they have taken to give effect to possible, in respect of each territory concerned, regarding the extent to which recourse has been had to force or compulsory labour in that territory, the purposes for which it has been employed, the sickness and death rates, hours of work, methods of payment of wages and rates of wages, and any other relevant information.

Article 23

1. To give effect to the provisions of this Convention the competent authority shall issue complete and precise regulations governing the use of forced or compulsory labour.
2. These regulations shall contain, inter alia, rules permitting any person from whom forced or compulsory labour is exacted to forward all complaints relative to the conditions of labour to the authorities and ensuring that such complaints will be examined and taken into consideration.

Article 24

Adequate measures shall in all cases be taken to ensure that the regulations governing the

employment of forced or compulsory labour are strictly applied, either by extending the duties of any existing labour inspectorate which has been established for the inspection of voluntary labour to cover the inspection of forced or compulsory labour or in some other appropriate manner. Measures shall also be taken to ensure that the regulations are brought to the knowledge of persons from whom such labour is exacted.

Article 25

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

Article 26

1. Each Member of the International Labour Organization which ratifies this Convention undertakes to apply it to the territories placed under its sovereignty, jurisdiction, protection, suzerainty, tutelage or authority, so far as it has the right to accept obligations affecting matters of internal jurisdiction; provided that, if such Member may desire to take advantage of the provisions of Article 35 of the Constitution of the International Labour Organization, it shall append to its ratification a declaration stating-

- (1) the territories to which it intends to apply the provisions of this Convention without modification;
- (2) the territories to which it intends to apply the provisions of this Convention with modifications, together with details of the said modifications;
- (3) the territories in respect of which it reserves its decision.

2. The aforesaid declaration shall be deemed to be an integral part of the ratification and shall have the force of ratification. It shall be open to any Member, by a subsequent declaration, to cancel in whole or in part the reservations made, in pursuance of the provisions of subparagraphs (2) and (3) of this Article, in the original declaration.

Article 27

The formal ratifications of this Convention under the conditions set forth in the Constitution

of the International Labour Organization shall be communicated to the Director-General of the International Labour Office for registration.

Article 28

1. This Convention shall be binding only upon those Members whose ratifications have been registered with the International Labour Office.
2. It shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organization 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 the ratification has been registered.

Article 29

As soon as the ratifications of two Members of the International Labour Organization have been registered with the International Labour Office, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organization. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organization.

Article 30

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 with the International Labour Office.
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 five years and, thereafter, may denounce this Convention at the expiration of each period of five years under the terms provided for in this Article.

Article 31

At the expiration of each period of five years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 32

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, the ratification by a Member of the new revising Convention shall *ipso jure* involve denunciation of this Convention without any requirement of delay, notwithstanding the provisions of Article 30 above, if and when the new revising Convention shall have come into force.
2. As from the date of coming into force of the new revising Convention, the present Convention shall cease to be open to ratification by the Members.
3. Nevertheless, this Convention shall remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 33

The French and English texts of this Convention shall both be authentic.

Appendix D: UN Convention on the Rights of the Child

United Nations Convention on the Rights of the Child

Preamble

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights

of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth,"

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily reestablishing his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents

to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents.

Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honor and reputation.
2. The child has the right to protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have a particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for

the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s), or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programs to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, Kafala of Islamic law, adoption, or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in the view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counseling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavor, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance, and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.
4. States Parties shall promote, in the spirit of international co-operation, the exchange of appropriate information in the field of preventative health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - a. To diminish infant and child mortality;
 - b. To ensure the provision of necessary medical assistance and health care to all

children with emphasis on the development of primary health care;

c. To combat disease and malnutrition, including within the framework of primary health care, through inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

d. To ensure appropriate pre-natal and post-natal health care for mothers;

e. To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents;

f. To develop preventative health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the

child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programs, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - (a) Make primary education compulsory and available free to all;
 - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
 - (d) Make educational and vocational information and guidance available and accessible to all children;
 - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
3. States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge

and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those states in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his own her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal

opportunities for cultural, recreational and leisure activity.

Article 32

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.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offenses committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavor to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or

speaking the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(a) The law of a State Party; or

(b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall

be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

- (a) Within two years of the entry into force of the Convention for the State Party concerned;
- (b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfillment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

- (a) The specialized agencies, the United Nations Children's Fund, and other United

Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of

deposit with Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favor a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favor such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all states. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designed as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the Nations.

Appendix E: Delhi Declaration (1995) (excerpt)

DELHI DECLARATION

PREAMBLE

1.0 We, the Labour Ministers of Non-Aligned and other Developing Countries, have gathered in this Fifth Conference hosted by the Government of India at New Delhi from the 19th to the 23rd of January, 1995 at a very momentous juncture when the United Nations is celebrating its 50th anniversary and the International Labor Organization its 75th.

THE WORLD ECONOMIC SCENARIO AND DEVELOPING ECONOMIES

Elimination of Child Labour

5.8 We are aware and hold that the practice of exploitative child labour wherever it is practised is a moral outrage and an affront to human dignity. It has serious adverse implication for the human capital development amongst the rising generations. Therefore, we should commit ourselves to implementing the UN Convention on the Rights of the Child. We too are pro-actively committed to eliminate this practice in terms of the resolution of the International Labour conference, 1979, particularly keeping in view the ground reality that it is poverty and distress combined with inadequate access to good quality relevant education that compel parents to send their children for work; and we resolve to fulfill this commitment in a time-bound manner, giving immediate priority for total and de facto elimination of child labour in hazardous employments; and, for the purpose, we should implement a package of legislative and developmental measures with adequate allocation of resources and fully involving the social partners, apart from learning from country-experiences in tackling this problem.

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