



LEGAL AND HUMAN RIGHTS CENTRE

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LEGAL FRAMEWORK ON CHILD LABOUR

WHAT IS CHILD LABOUR?

Child labour refers to the exploitation of children through any form of work that deprives children of their childhood, interferes with their ability to attend regular school, and is mentally, physically, socially or morally harmful.

PREVALENCE OF CHILD LABOUR

1 in 5 children in Africa (19.6%) are in child labour, whilst prevalence in other regions is between 3% and 7%: 2.9% in the Arab States (1 in 35 children); 4.1% in Europe and Central Asia (1 in 25); 5.3% in the Americas (1 in 19) and 7.4% in Asia and the Pacific region (1 in 14).

Worldwide 218 million children between 5 and 17 years are in employment. Among them, 152 million are victims of child labour; almost half of them, 73 million, work in hazardous child labour.

In absolute terms, almost half of child labour (72.1 million) is to be found in Africa; 62.1 million in the Asia and the Pacific; 10.7 million in the Americas; 1.2 million in the Arab States and 5.5 million in Europe and Central Asia.

Almost half of all 152 million children victims of child labour are aged 5-11 years. 42 million (28%) are 12-14 years old, and 37 million (24%) are 15-17 years old.

Hazardous child labour is most prevalent among the 15-17 years old. Nevertheless up to a fourth of all hazardous child labour (19 million) is done by children less than 12 years old. Among 152 million children in child labour, 88 million are boys and 64 million are girls. 58% of all children in child labour and 62% of all children in hazardous work are boys. Boys appear to face a greater risk of child labour than girls, but this may also be a reflection of an under-reporting of girls' work, particularly in domestic child labour.

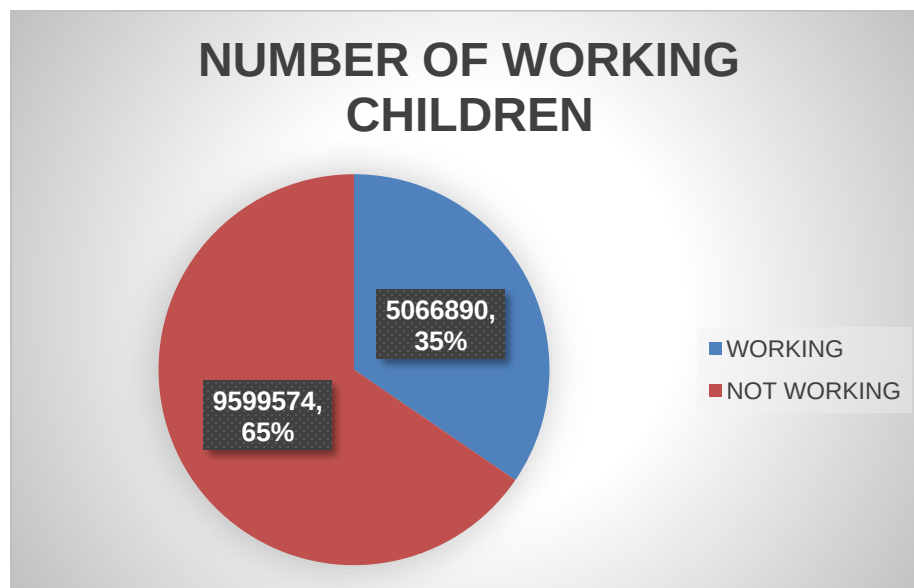
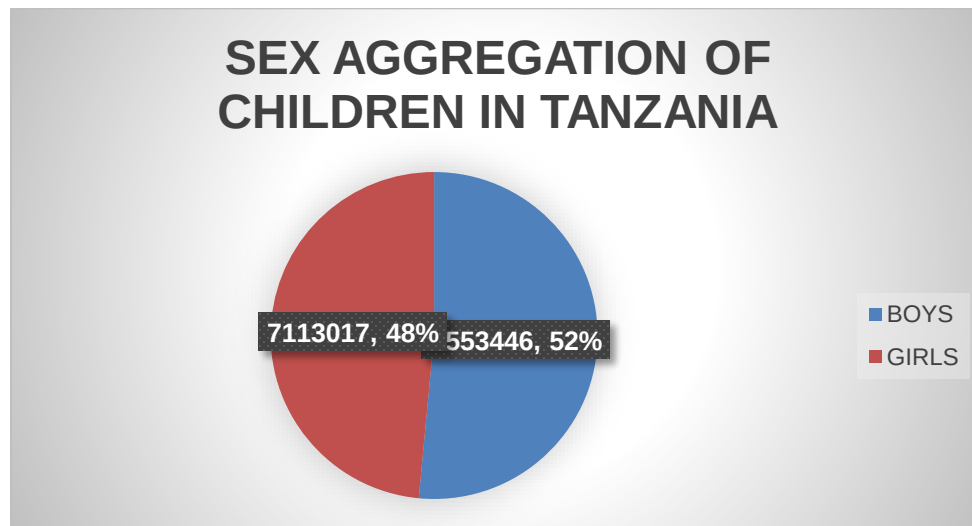
Child labour is concentrated primarily in agriculture (71%), which includes fishing, forestry, livestock herding and aquaculture, and comprises both subsistence and commercial farming; 17% in Services; and 12% in the Industrial sector, including mining.

By the Tanzania National Child, Labour Survey reported that Tanzania has a total of 14,666,463 children aged 5 – 17 with boys being 7,553,446 and 7,113,017 girls. The number of children in

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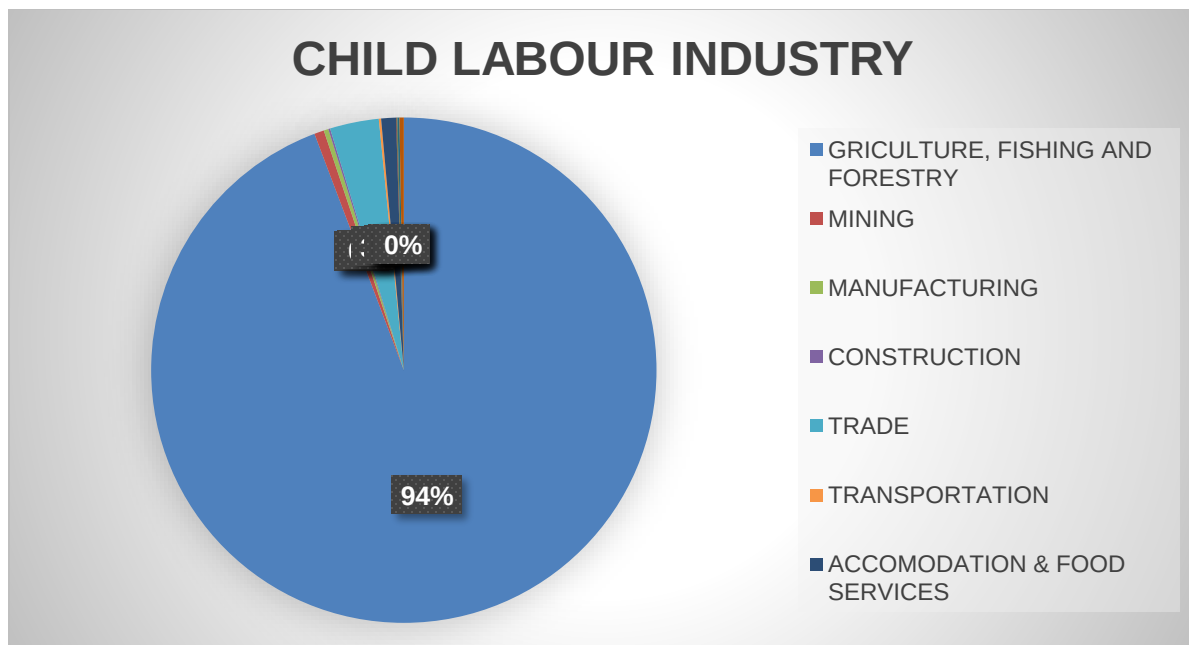
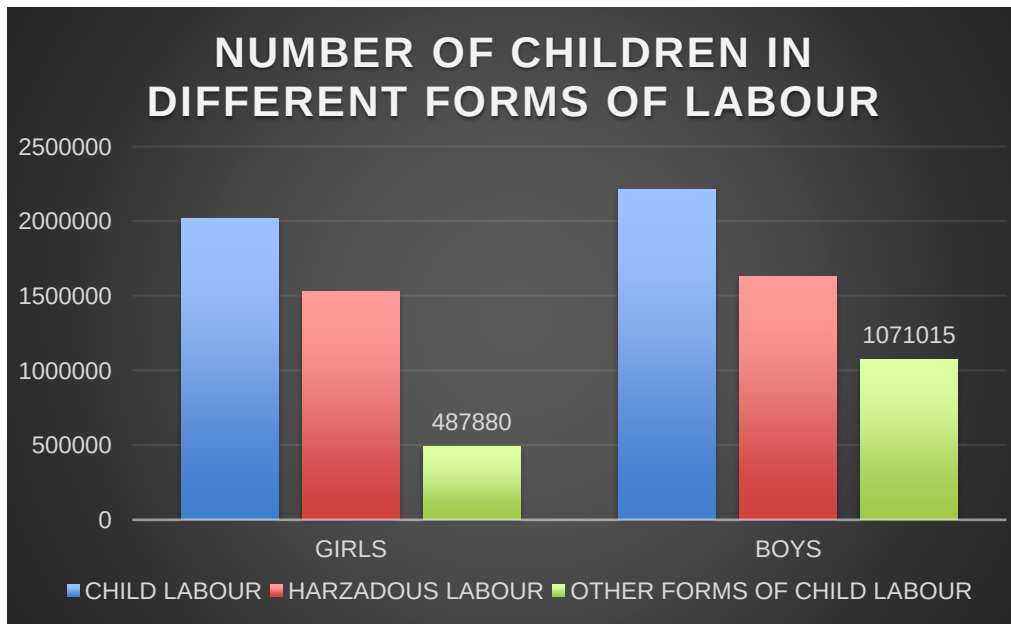
child labour of ages 5 – 17 is 5,066,890 with boys being 2,662,098 and 2,404,792 girls. Most children work in Agriculture, fishing, domestic and trade.



Among children who work in a vulnerable situation (domestic services), girls account for a higher proportion of 84.2% compared to boys 15.8%. Agriculture, forestry and fishing is the most dominant industry with 92.1% of total working children with boys having a larger proportion of 94.3% than girls 89.6%. Almost nine out of ten (89.3%) of children are working as agricultural and fishery workers. The majority of children aged 5–17 years are working as unpaid family helpers in agriculture which accounts for 88.7% per cent, with proportionately more boys 90.0% compared to girls 87.1%.

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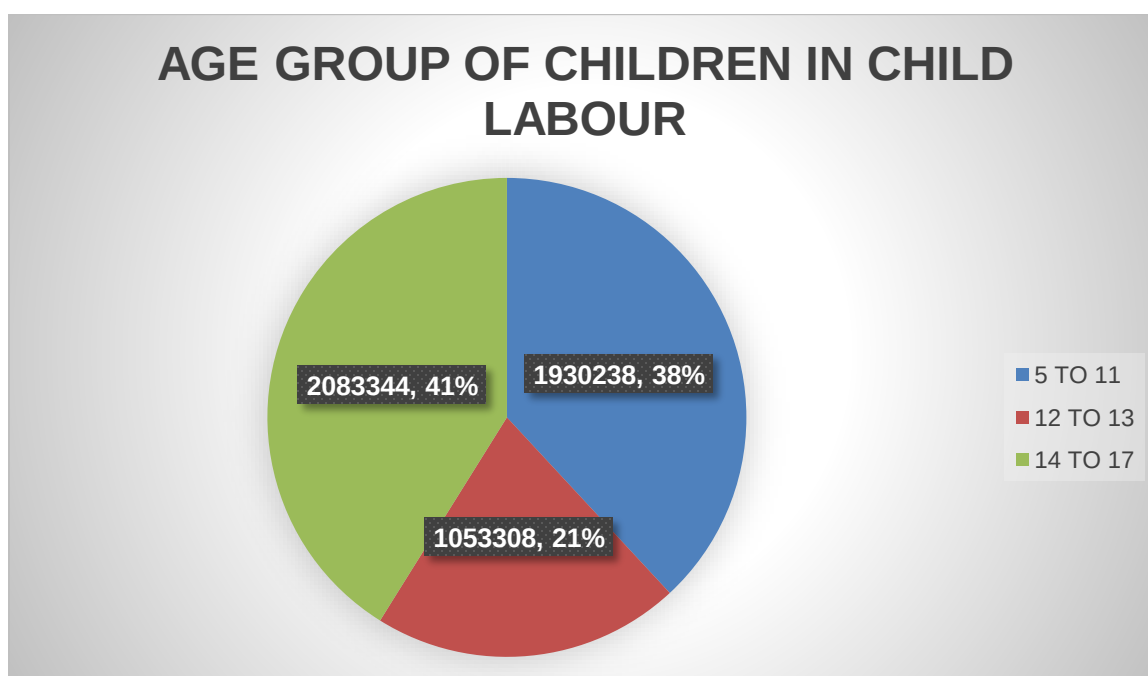
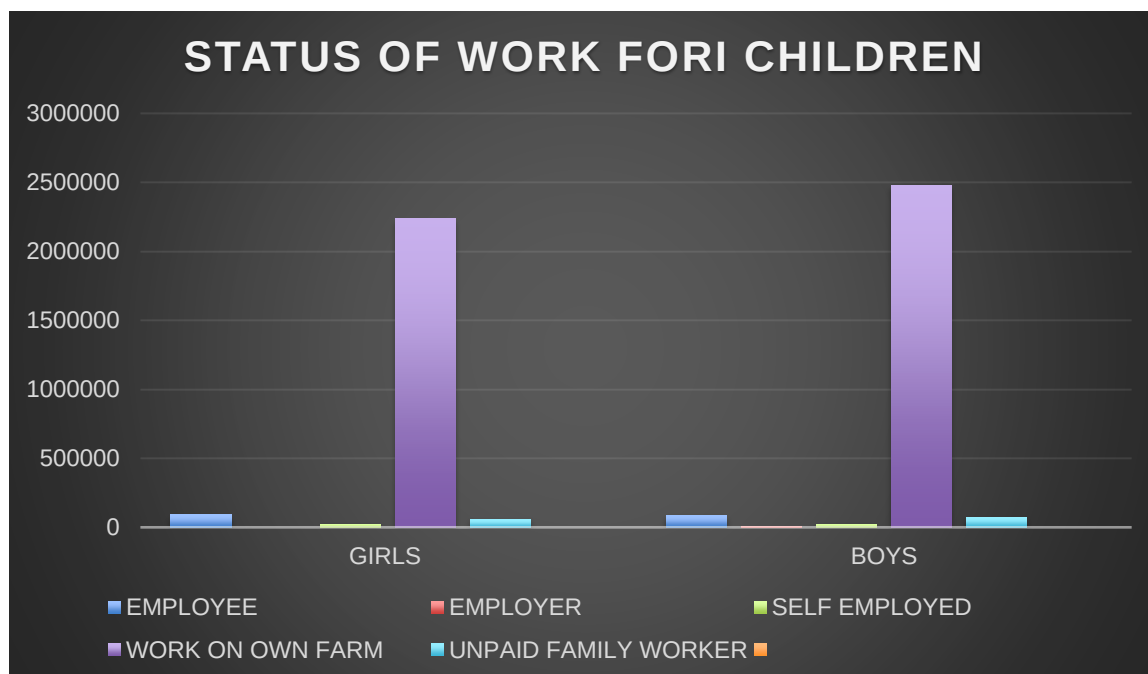
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It is revealed that overall child labour rate is 28.8% equivalent to 4.2 million children. Child labour rate for boys 29.3% is slightly larger than that of girls 28.4%. It is also observed that, child labour rate increases with age, with children in the age group 14-17 years having the highest rate of 40.7%. The problem of child labour is relatively more prevalent in Rural areas 35.6% as compared to Other Urban areas 18.0%.

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LEGAL FRAMEWORK

Tanzania has ratified different international and regional conventions and protocols on the protection of children from child labour.

i. *Convention on the Rights of the Child (CRC)*

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The CRC has stated in its article 32 on child labour and that member states should recognize and protect children from child labour as follows;

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.

ii. *Optional protocol to the Conventions on the Rights of the Child on Armed Conflict*

The optional protocol aims to protect children from recruitment and use in hostilities and commits as follows; States will not recruit children under the age of 18 to send them to the battlefield, States will not conscript soldiers below the age of 18, States should take all possible measures to prevent such recruitment including legislation to prohibit and criminalize the recruitment of children under 18 and involve them in hostilities, States will demobilize anyone under 18 conscripted or used in hostilities and will provide physical, psychological recovery services and help their social reintegration and Armed groups distinct from the armed forces of a country should not, under any circumstances, recruit or use in hostilities anyone under 18.

iii. *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

This aims to prohibit the sale of children, child prostitution and child pornography which most come in the form of child labour and urges state parties to protect children from the same.

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

This convention last worst form of child labour which includes;

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

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- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

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

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

The convention states the minimum age of employment to be 18 and no one below that age should be subjected to any forms of employment. In its article 3, it states that; 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 jeopardize the health, safety or morals of young persons shall not be less than 18 years.

vi. *African Charter on the Rights and welfare of the Child*

The charter also states on child labour for the aims of protecting ana African child. It states that;

1. Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development.
2. States Parties to the present Charter take all appropriate legislative and administrative measures to ensure the full implementation of this Article which covers both the formal and informal sectors of employment and having regard to the relevant provisions of the International Labour Organization's instruments relating to children, States Parties shall in particular:
 - (a) provide through legislation, minimum wages for admission to every employment.
 - (b) provide for appropriate regulation of hours and conditions of employment;
 - (c) provide for appropriate penalties or other sanctions to ensure the effective enforcement of this Article;
 - (d) promote the dissemination of information on the hazards of child labour to all sectors of the community.

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vii. *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (PALERMO PROTOCOLS)*

The purposes of this Protocol are to prevent and combat trafficking in persons, paying particular attention to women and children, to protect and assist the victims of such trafficking, with full respect for their human rights; and to promote cooperation among States Parties to meet those objectives.

viii. *Constitution of the United Republic of Tanzania*

The constitution of the united republic of Tanzania in its article 25(2) has prohibited forced labour in the United Republic of Tanzania. Most children work are in the form of forced labour and thus infringes children rights.

ix. *Employment and Labour Relations Act*

The Act has defined a child as a person below the age of 14 and thus in its section 5, it has permitted child labour from age 14 to 17 and prohibited hazardous labour in the same section. The act has also prohibited forced labour to children in section 6 and states that it is an offence to also provide works to a child that is not appropriate to their age. However, the Act goes against the international standard and have failed to fully protect Tanzania children who are subjected to child labour including hazardous labour. The act also states that the child labour should not affect the child mentally or Healthwise and should not deny the child's attendance to school.

x. *The Law of the Child Act*

This act defines a child as any person below the age of 18 and in its section 82 provides for prohibition of child labour as it states It shall be unlawful to employ or engage a child in any hazardous work. The act also provides for the minimum age of labour to be 14 for light work which is defined to constitute work which is not likely to be harmful to the health or development of the child and does not prevent or affect the child's attendance at school, participation in vocational orientation or training programmes or the capacity of the child to benefit from schoolwork. The act also prohibits forced labour to a child in its section 80 as it states any person who induces, procures, demands or imposes forced labour to a child, commits an offence.

There are also the anti-trafficking in person Act which prohibits forced labour, the National Education Act which provides for compulsory education age to be 14 which is contrary to national standards,

CAUSES OF CHILD LABOUR

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Poverty

With high levels of poverty, many children are pushed to work to supplement the family income, work for their income to meet their individual needs, pay for school fees, and care for their siblings. Poverty levels have also impacted the development of social sectors, and therefore children from households with low income do not have access to basic services.

Failing Education Standards

Studies show that children who engage in child labour at an age below 18 are associated with lower educational attainment and delayed development of basic literacy and quantitative skills. Although investments in education access and quality have improved, a significant gap still exists in terms of equity in access.

Cultural Factors

Cultural factors that contribute to the problem of child labour include early marriages and polygamy. Women are denied rights to own or inherit property, particularly land, giving rise to many landless women and widows who have no assets to help them cater to their needs. In some of the regions, girls still undergo female circumcision and early marriages. In Search of a Better Life In some cases, children work because they believe there are better prospects away from home.

Cheap Labor

Some employers prefer employing children because they are easier to control and exploit. Most children do not know their rights and because they are also poor, they are pushed to seek and maintain their employment. They are often silent when exploited or overworked. Children in most cases do not negotiate contracts, and they lack bargaining power and are restricted from joining trade unions.

Other causes are illiteracy, broken homes, violence, limited prohibitions on child labour, street children and self-actualization

EFFECTS OF CHILD LABOUR

The difficulty of tasks and harsh working conditions create several problems such as premature ageing, malnutrition, depression etc. From disadvantaged backgrounds, minority groups, or abducted from their families, these children have no protection. Their employers do whatever necessary to make them completely invisible and are thus able to exercise absolute control over them. These children work in degrading conditions, undermining all the principles and fundamental rights based on human nature.

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Additionally, a child who works will not be able to have a normal education and will be doomed to become an illiterate adult, having no possibility to grow in his or her professional and social life. In certain cases, child labour also endangers a child's dignity and morals, especially when sexual exploitation is involved, such as prostitution and child pornography.

Furthermore, a child who works will be more exposed to malnutrition. These children are often victims of physical, mental, and sexual violence.

RECOMMENDATIONS

- i. Empower parents financially so they can be able to provide for their children and not put the burden to provide for families to their children instead
- ii. Ensure children receive and complete their education
- iii. Have in place laws that fully protects children and prohibits child labour below the age of 18 as per the international standards
- iv. Have in place systems to monitor people employing children and who subject them to hazardous work
- v. Ensure that minimum age protections apply to children engaged in domestic work.
- vi. Criminalize the use of children in illicit activities, particularly in producing and trafficking drugs.
- vii. Criminalize the recruitment of children under age 18 by non-state armed groups.
- viii. Continue to expand the list of hazardous occupations.
- ix. Ensure that there is no gap between the age for compulsory education and the minimum age for work, which leaves children vulnerable to child labour.
- x. Ensure that teen mothers are allowed to go back to school
- xi. Increase the number of labour inspectors to meet ILO's technical advice.
- xii. Publish information on child labour law enforcement actions, such as funding, training provided, routine and unannounced inspections conducted, child labour violations found, penalties imposed and collected, and referral mechanisms between labour authorities and social services.

REFERENCES

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