2009

COMBATING OF CHILD LABOR IN AGRICULTURE: CRITICISM OF EXISTING STANDARDS AND ROLE OF TRANSNATIONAL CORPORATIONS

Irina Feofanova

Available at: https://works.bepress.com/irina_feofanova/1/
INTRODUCTION

According to International Labour Organization (ILO) statistics, more than 70 percent of all child laborers work in agriculture. From tending cattle, harvesting crops, to handling machinery or holding flags to guide planes spraying pesticides, more than 132 million girls and boys, aged 5 to 14, help produce much of the food and drink people consume, as well as fibers and primary agricultural materials. ILO also notes that, of course, the numbers vary from country to country but it is estimated that at least 90 percent of economically active children in rural areas in developing countries are working in agriculture. However, child labor in agriculture is not confined to developing countries - it is also a serious problem in industrialized countries. Human Rights Watch reports in Egypt, Ecuador, India, and the United States, the children working in agriculture are endangered and exploited on a daily basis. “Human Rights Watch found that despite the vast differences among these four countries, many of the risks and abuses faced by child agricultural workers were strikingly similar.”


Several child protection projects draw public attention to the fact that a large number of children working in agriculture carry out hazardous child labor, which is work that can threaten their lives, limbs, health and general well-being. On farms and plantations of all types and sizes, these child laborers carry out jobs or tasks, which put their safety and health at risk. In terms of loss of life, accidents and work-related ill health, agriculture is one of the three most dangerous industries in which to work (along with mining and construction).\(^3\)

There are existent binding sources of international law, prohibiting child labor. Some scholars even argue, that certain standards of child labor are part of customary international law, and thus, all states shall take measures to insure their non-violation, notwithstanding if the states are signatories to the appropriate conventions or not. Current international standards have their flaws, but their existence definitely makes things better. Although abusive child labor still exists, history shows significant improvement of child labor use in agriculture. Important place in improvement process belongs to private sector. Big corporations respond quicker to the change of their public image as a result of child labor use in their facilities, than the whole international enforcement mechanism works combating child labor per se. Social and ethic practices, initiated by governments, NGOs or TNCs themselves and employed by TNCs, help to eliminate abusive child labor at the spot, avoiding costly, long-lasting and often ineffective conventional mechanisms.

This master thesis is divided into two parts. Part I examines international legal instruments on child labor in agriculture. It includes chapters *Causes of child labor* and *Existing standards: failures and success*. The latter contains description of main

---

\(^3\) *Ibid.*
international sources, definition of child labor, discussion on conventional standards of child labor and causes of their vagueness, obstacles to ratification of the ILO instruments and analysis of the possible solution. Part II examines the Role of Private Sector In Combating of Child Labor in Agriculture, which includes tree chapters: *Importance of private action in implementation of child labor standards in agriculture*, *International and Domestic Law about Transnational Corporations and Child Labor* (introducing United Nations Initiatives, OECD Guidelines, ILO Corporate Principles, The Cocoa Protocol and domestic regulation of corporate conduct) and *Practices of TNCs and Child Labor* (analyzing causes of use of child labor v. causes of good practices and failures and success of corporate codes of conduct and labeling). The Appendices include four tables as a substantial part of the general discussion: *Causes and Effects of Child Labor in Agriculture*, *International Standards of Child Labor in Agriculture*, *Causes of negative v. causes of positive impacts of TNCs*, *Ethical practices of TNCs: failures or success*.

I. COMBATING OF CHILD LABOR IN AGRICULTURE: INTERNATIONAL LEGAL INSTRUMENTS

1. Causes of child labor

   Children work because of different and mostly complex reasons. There are four main areas of causes: economic, social, cultural and political. *Table 1. Causes and Effects of Child Labor in Agriculture*, which can be found in the Appendices, examines variety of these causes and their present and potential effects.

2. Existing standards: failures and success

   *Main international sources*
There are three main reasons why child labor is condemned worldwide. “First, children naturally are less mature than adults in their stage of development, and not as strong physically, and thus are more susceptible to injury. Second, children’s bodies have weaker anatomical, physiological, and psychological systems than adults, and are more likely to be adversely affected by exposure to chemical toxins” and other hazards.

“Third, children subjected to labor have to go to work instead of going to school, and hence lose the opportunity to properly develop from a mental and a social standpoint.”

Child labor is fought on different levels. The ILO generally reports “the overwhelming support” of states for ILO standards “specifically focused on the worst forms of child labour”. The evolution of binding international law in the area of child labor rights started from 1921, when ILO issued several minimum age conventions. Several international organizations and NGOs concentrate on developing standards in this area of law. Currently main sources of international law with regard to certain minimum standards of child labor are United Nations Convention on the Rights of the Child (1989) (192 states ratified, 2 remains signatories) (hereinafter – CRC) and ILO Conventions,

---


5 Ibid. (citing Benjamin J. Stevenson, supra, at 136).


7 The leading organizations in this field are International Labor Organization (ILO) with the special International Program on the Elimination of Child Labour (IPEC). Food and Agriculture Organization of the UN, International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations (IUF), UN Children’s Fund (UNICEF) with the special program Understanding Children’s Work (UCW). Among NGOs important role in this area is played by Human Rights Watch, International Organization of Employers (IOE), the Anti-Slavery Society and International Confederation of Free Trade Unions (ICFTU).


ILO also adopted several recommendations with regard to elimination of child labor, which are to be “submitted to the Members of the ILO for consideration with a view to effect being given to it by national legislation or otherwise, in accordance with the provisions of the Constitution of the ILO”\(^{16}\). Relevant recommendations are:

Minimum Age Recommendation, 1973 (No. 146), Worst Forms of Child Labour


\(^15\) International Labour Standards by Subject, http://www.ilo.org/ilolex/english/subjectE.htm#s03 (last visited June 12, 2009).

Recommendation, 1999 (No. 190), Medical Examination of Young Persons

Recommendation, 1946 (No. 79), Discrimination (Employment and Occupation)

Recommendation, 1958 (No. 111), Labour Inspection (Agriculture) Recommendation, 1969 (No. 133), Plantations Recommendation, 1958 (No. 110), Recommendation concerning Night Work of Children and Young Persons in Agriculture, 1921 (No. 14) (to be revised). Though ILO recommendations are not directly binding sources upon states, they can be used as secondary binding sources. According to Art. 19 (6(d)) of the ILO Constitution, member-states of the ILO “shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice in their country in regard to the matters dealt with in the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as it has been found or may be found necessary to make in adopting or applying them.”17

It may be also argued that a lot of minimum child labor standards have become part of international customary law and general principles of international law. However, in this paper I will focus on particular provisions of international conventions and other secondary sources of law.

**Definition of Child Labor**

None of the binding sources of international law contains an explicit definition of child labor. ILO, according to its reports, uses the notion of child labor in a narrow sense,

limiting it to work, which does not fall “within the legal limits and [which] interfere with children’s health and development or prejudice their schooling.”

International community agrees that any other children’s work “can be a positive experience.” ILO also specifies that child labor (in its narrow sense) falls into three categories: 1) “The unconditional worst forms of child labour, which are internationally defined as slavery, trafficking, debt bondage and other forms of forced labour, forced recruitment of children for use in armed conflict, prostitution and pornography, and illicit activities; 2) Labour performed by a child who is under the minimum age specified for that kind of work (as defined by national legislation, in accordance with accepted international standards), and that is thus likely to impede the child’s education and full development; 3) Labour that jeopardizes the physical, mental or moral well-being of a child, either because of its nature or because of the conditions in which it is carried out, known as ‘hazardous work’.”

Each category of prohibited child labor can be found in agriculture. Forced child labor in agriculture has not fully disappeared yet. For example, “[t]here are as many as 15 million bonded child laborers in India, most of whom are Dalits (so-called untouchables) or lower caste. More than half, and possibly as many as 87 percent of these bonded child laborers work in agriculture, tending crops, herding cattle, and performing other tasks for

---


19 See Ibid.

20 Ibid., p. 24 (citing A Future Without Child Labour, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I(B), International Labour Conference, 90th Session, Geneva, 2002, para. 26.)
their ‘masters.’” Involvement of children under the minimum age is also quite common in agriculture, even in developed states. And hazardous character of work is inevitable in almost any kind of agricultural activities.

Conventional standards of child labor

Table 2, which can be found in the Appendices of this paper, examines certain examples of existing international principles and standards of child labor in agriculture and suggests some points of particular criticism for each of them.

Summing up the Table 2 analysis, a big step forward of the Convention No. 138 is establishing a general minimum age standard for all industries and all kinds of employment, eliminating, for instance, a discriminative treatment of children working in agriculture. According to the preparatory work for the Convention, the established standard was determined to be flexible and dynamic “aimed at encouraging the progressive improvement of standards and of promoting sustained action to attain the objectives.” However, certain provisions of the Convention are too broad or vague, so that the Convention itself does not provide any guidelines on how to improve the standard. In agriculture a lot of authority to set the certain rules is given to national legislation and governments. While reputation for poor conditions of employment, the agricultural sector is exempt from many nations’ safety and health regulations, hours of work laws, social security protections, and other labor legislation including child labor


22 See Creighton, supra, at 372 (citing Minimum Age for Admission to Employment, ILO, 57th Sess., Rep. IV(1), at 31 (1972)).
protections. Considering that about 70 percent of all working children in the world are involved specifically in agriculture, these failures of the existent international standards seem the most noticeable.

On another hand, the Convention is often called inflexible because of its prescriptive character and, specifically, because of a strict requirement of a nexus between minimum age setting and compulsory education.

Thus, the biggest flaws of the ILO child labor instruments ironically are vagueness and inflexibility. The following chapters examine possible causes of vagueness and consequences of inflexibility.

_International Compromise or Causes of Vagueness_

Specific language of the ILO child labor conventions is a result of long negotiations between all the ILO member countries. Preparatory work indicates many controversies among the states, international, governmental and non-governmental organizations. Broadness, and sometimes vagueness of the text, is often justified by the compromise between extreme positions. Following are some of the issues raised during the discussion on the adoption of Convention No. 182 and through recommendations of the Committee of the Rights of the Child.

To begin, the ILO office stated that “[t]he desire is expressed again in the general observations to have a short, focused Convention, dealing with basic principles and capable of being ratified in all member States. It is also suggested that it should define the worst forms of child labour and the measures required for their immediate elimination
clearly and realistically enough to make their implementation and ratification feasible, that it should be among the fundamental ILO Conventions, and that it should create immediate and concrete obligations that are narrowly focused and action-oriented.”^{23}

Thus, the feasibility of ratification by as many states as possible was the fundamental idea of the Convention No. 182. The same can be stated about the Convention No. 138 as well. Finland, Germany, United States, Republic of Korea noted specifically that the Convention requirements should be realistic. Thus, starting from the spirit of the ILO child labor instruments, there is a purpose of flexibility for bigger international support and ratification.

In the commentaries of states to the suggested draft of the Convention No. 182 and a recommendation to it the opinions on the perspective status of the Convention and Recommendation divided into extremes.

Some countries noted the ambiguity and incompleteness of the Convention. For instance, the government of Egypt made a general comment that “proposed Recommendation should be annexed to the proposed Convention and not supplement it, since … a Recommendation is not binding for States which have ratified the Convention to which it is attached, but is only for guidance.”^{24} Mexican government suggested that “[t]he instruments should then fix the minimum age, hours and conditions of work and the application of penalties, and in doing so take account of the provisions on child labour in the legislation of each State.” Portuguese government commented iner alia: “work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of children, as provided in Article 3(d), should be specifically

\(^{23}\) ILO Report IV (2A), supra.

\(^{24}\) Ibid.
defined in the proposed Convention instead of the proposed Recommendation, given that the proposed Convention is a binding instrument.” Turkey was more specific, suggesting that “the practice of arming children and sending them to war must also be defined as "hazardous work". The Committee on the Rights of the Child shared this idea. South Africa made a comment that not only Convention itself should be modified: “[i]n addition to supplementing the proposed Convention, the proposed Recommendation should be drafted so that it could be used as a stand-alone document in countries that have not ratified the Convention.” Portugal agrees that “the proposed Recommendation, not having the same binding nature as the proposed Convention, could include more advanced provisions in respect of the progressive elimination of all forms of child labour.”

The ILO Office’s rational to the mentioned above comments was again flexibility of the instruments. For instance, on the issue of child soldiers the ILO Office kept to its original position, stated in Report IV(1), “that it understood that under the proposed Convention as drafted, the participation of children in military services, armed forces or in armed conflicts would be contrary to the Convention if the determination is made under Article 4 that the work or activity in which they are engaged is likely to jeopardize their health, safety or morals. It may be assumed that participation in armed conflict would necessarily jeopardize their health, safety or morals. Participation in military activities might also be covered by other provisions of Article 3, for example, if it is forced or compulsory labour.”

Accordingly, the ILO Office argues that the existing broad language of the Convention implies coverage of child soldiers, if this work of

25 Ibid.
children is hazardous or compulsory. It extends the Convention as an option for ratification for those countries, which have compulsory or contract serving in the state army for persons below 18 years old.

Another group of countries opposes the adoption of the Convention. Mexico and Indonesia think that the instrument should be wholly in the form of recommendation. Finland made the following assumption: “Attention should rather be focused on extreme cases and the forms of work which are most harmful to the well-being of children. The ILO's existing instruments already cover these worst forms of labour. The demands imposed by these instruments are, however, unrealistically high for many countries, which has resulted in a low level of ratification. It is therefore particularly important to keep the demands realistic.”

One of the central controversies between the countries is also connection between Minimum Age Convention No. 138 and the Worst Forms of Child Labour Convention No. 182. Most of the states agree that older Convention No. 138 is fundamental instrument and aims to combat child labour as a whole, while the Convention No. 182 has a purpose of fighting the extremes of child labor immediately. Some countries believe that these two conventions should supplement each other and the CRC for the purposes of universality. The opponent countries argue against incorporating of the same language in both conventions. As the ILO office summarizes, “[c]oncerns are raised in particular with respect to the references to Convention No. 138 in the Preamble and to the similarities between Articles 3(d) and 4 concerning the definition of the worst forms of child labour, and the provisions in Article 3 of Convention No. 138 on the higher minimum age for

---

26 Ibid.
hazardous work… [Commentators] are concerned that a repetition of, or too close a link with, provisions in Convention No. 138 is inappropriate and might result in the adoption of provisions which could pose similar obstacles to ratification, or that references to child labour in general are inappropriate because some forms of work by children are acceptable.”  

Another discussion issue was poverty. Preamble of the Convention No. 182 names poverty as a cause of child labor. A number of states argue that poverty is not the only cause of child labor and should not be listed in the Convention Preamble as the only or principle one (France, Germany, Ireland, etc.). Poverty is also argued as a consequent of child labor. And for instance, Kenya commented that “[p]overty should be cited for its special relevance in three ways: as a consequence and cause of child labour, as a factor that must be eliminated, and because of its relationship to social justice, which must be promoted.”

A lot of states commented on different countries traditions with regard to child labor. For instance, Jordan insisted on the age 16 instead of 18 for the worst forms of child labor, “because traditionally in Jordan, as in other developing countries, a child who reaches the age of 16 is deemed fit to undertake some forms of labour. To set the age at 18 does an injustice to children in the 16-18 age group, especially those who cannot join educational institutions. Failure to employ them represents a social burden, especially as unemployment leads to vagrancy and behavioural and moral deviance.”

Developed countries, like Finland and Germany, also commented on traditional work of children: “Children's participation in working life has a long history and deep cultural roots in

\[27 \text{Ibid.}\]
\[28 \text{Ibid.}\]
many countries. Such participation also has implications for the economic development of these countries. It would therefore be a mistake to seek to ban all forms of work by children” (Finland).

Special attention of some commentators was given to the domestic work and the situation of girls: “Another important and fundamental aspect is the recognition of the particularly serious situation of girls, the exploitation of whom is often hidden in homes, and which escapes the public monitoring and censure it deserves because it is justified by usage, customs and practices, which make it no less reprehensible” (Italy). The Committee on the Rights of the Child in its recommendation regarding economic exploitation of children also noted: “Domestic work in families is rarely taken into account in statistics on the active population or on working children. Whether they are from the members of the family or not, child domestics experience special problems tied in with their complete subordination and with lack of privacy. Girls are the victims of incest, rape and sexual abuse. National labour laws on domestic staff rarely reach out to them, for they are not identified as being in wage-earning employment. If they are paid, the pay is no more than an allowance collected by their parents, who live in need.”29

Another issue raised by several states and the Committee on the Rights of the Child is effectiveness of the ILO instruments. For instance, Portugal noted that “it will not be enough to publish laws prohibiting [worst forms of child labour] (remember that in most countries child labour is already prohibited), but it will be necessary effectively to monitor their practical application through the use of coercive measures (the application of sanctions, preferably penal ones)”.

29 CRC Recommendation, Statement by Mrs. Akila Belembaogo, supra.
alternative to work. Germany specifically stressed that the education hours should be flexible for legally working children. Venezuela suggested: “The instrument adopted by the Conference … should also emphasize positive aspects. For example, the governments and civil societies of countries where poverty is seen as making child labour necessary should devise forms of child labour that are culturally based, such as theatrical activities and other activities that develop the child's artistic talents and skills, such as music, poetry and painting. Such activities should be strictly supervised by the State.” The Committee on the Rights of the Child also recommends: “A system for inspection of work places is needed in each country. Also, the informal sector of the economy should be systematically controlled.”

30 The Committee also recommends “that States parties launch wide information campaigns on the Convention specifically addressed to children, in order for them to become aware of their rights (including the rights to study, to play and to take rest), of the measures of protection they can benefit from and of the risks they face when they are involved in situations of economic exploitation - as in the case of activities harmful to their health, preventing their harmonious development, interfering with their education, or involving them in criminal activities.”

The preparatory work to the ILO fundamental instruments and the Committee on the Rights of the Child recommendations contain some other discussions regarding the precise language of the Conventions No. 138 and No. 182. But even these examples show the complications of balancing between different states’ positions in negotiating a universal instrument, which could be ratified by every state-member of the ILO.

30 CRC Recommendation, supra.
Obstacles to Ratification of the ILO Instruments

Unfortunately, even broad language of the ILO instruments regarding child labor did not avoid some inflexibility of the Conventions, which imposes certain obstacles to ratification for some states. The ILO Governing Body in its 270th Session report examined countries’ answers regarding obstacles to the ratification of the ILO instruments, including child labor conventions, and mentioned “four principal categories of obstacles which often appear in tandem: non-conformity of national legislation and practice with the provisions of fundamental Conventions; the political, economic and social situation; the rigidity of certain instruments; and the cumbersome and sluggish nature of national ratification procedures”\(^\text{31}\).

The most frequently stated obstacle is non-conformity, which applies “both to cases where the legislation (including the Constitution) of member States is not in conformity with certain Articles of the fundamental Conventions, and to cases where legislation or national regulations on specific points stipulated in certain Conventions simply do not exist. … [S]ome countries indicate that before deciding on the possible ratification of the instruments in question, they must first carry out an in-depth examination of prevailing legislation to ascertain whether it is in conformity with the requirements of the Conventions…”\(^\text{32}\).

---


\(^\text{32}\) Ibid, para. 4.
Political, economic and social situation difficulty is often cited by countries “which consider that their political situation (civil war, political unrest), level of economic development (lack of state funds, weakness of the institutional capacity of ministries of labour, transition towards a market economy, size of the informal sector, weakness of national supervisory mechanisms for the application of legislation, poverty) or of social development (illiteracy, social taboos, burden of cultural constraints) do not allow them, at the present time, to apply in a satisfactory manner, Conventions that they have not yet ratified.”\(^{33}\) Some of the countries, which have already ratified ILO Conventions, state the same difficulties in their practical application.

A number of countries (Australia, China, India, Mexico, United Kingdom, United States and others) consider the Convention No. 138 to be “too rigid, excessively detailed and complex and maintain that they do not sufficiently take into account the national conditions prevailing in each of the ILO member States.”\(^{34}\) For instance, the problem of necessary nexus between minimum age setting and compulsory education, prescribed by the Convention No. 138, is topical for both developed and developing countries. In developed countries “it is common practice … for children and young people who are still engaged in full-time education to supplement their resources by working part-time outside school hours and during vacations.”\(^{35}\) Meanwhile, in many developing countries child labor cannot be totally eliminated because of the economic situation and/or family traditions.

\(^{33}\) Ibid, para. 5.

\(^{34}\) Ibid, para. 6.

\(^{35}\) Creighton, supra, at 386.
Another obstacle to ratification, indicated by some countries “implies initiating cumbersome, complex and relatively slow procedures, such as amendments to their Constitutions or fundamental laws or, in the case of certain federal States, consulting and seeking the approval of the constituent states, provinces or cantons if the ILO Convention in question relates to spheres falling within their competence. Changes in political majority also have an impact on the outcome of ratification procedures, as a number of countries have indicated in their communications”\(^\text{36}\).

Other technical obstacles to ratification were also indicated. For instance, Armenia stated that it cannot consider the ILO instruments before they are translated into Armenian language, and the country itself lacks financial sources to do so.\(^\text{37}\) This problem, like some other technical obstacles, is the same for many countries.

Searching for the Solution

Analysis of the main flaws of the UN and ILO Conventions related to child labor, as well as these flaw’s causes and consequences, brings to the question how the current international child labor standards can be realistically changed to be more effective. There can be several options: 1) to create a new instrument; 2) to adopt optional protocols to existing conventions, suggesting higher standards; 3) to leave all binding sources like they are and edit secondary sources: declarations, recommendations, guidelines, etc. The first option is the least likely to be implemented, because, first of all, the new Conference would meet the same difficulties of compromising the language of a new instrument; and

\(^{36}\) GB.270/LILS/5, para. 7.

\(^{37}\) See Ibid., para. 9.
second, creating of a new convention would require a lot of additional financial funds, which can be used for other immediate purposes. The second option would also require additional funds, however, it would more likely have a positive result: first, some states would bound themselves with the higher child labor rights standards; second, the application of higher standards at least by a group of states would change a general state practice in this area, creating a different international custom; and third, it would be the next step in evolution of international law in this area. The third option also has its benefits. Secondary sources of international law play a big role in developing of new principles and improving evolving standards.

In searching for the solution another question might be whether there are better standards in the world in form of regional international conventions or national laws, which can be incorporated in the existent international standards or used as guidelines. However, it is important to keep in mind world diversity and economic, cultural and political relativism of the regional and national laws. A rule, which is good for one country, or one group of countries, can be unacceptable for others. Among all the regional international child labor standards European rules seem the most progressive. Though most of the child labor regulations of the European Union generally “are very much in sympathy with the approach adopted in Convention No. 138 and in other ILO standard-setting instruments in this area”, the Council of Europe Directive of June 1994 adopts “a more flexible approach to issues such as part-time work by children outside school hours and during school holidays than the comparable ILO standards.”

^38 Creighton, *supra*, at 370.
II. ROLE OF PRIVATE SECTOR IN COMBATING OF CHILD LABOR IN AGRICULTURE

1. Importance of private action in implementation of child labor standards in agriculture

Legal struggle for abolition of child labor does not bring immediate positive results. International conventions and even U.N. non-binding recommendations can have legal effects only upon states, but not private players. As a result, there are gaps between obligations of states and actual state measures, and between state regulations and actual corporate conduct. These gaps substantially slow down processes of benefiting from existing child labor standards of actual addressees - children. International accountability of corporations, which are the main children employers, would benefit children directly and much faster. The doctrine of corporate accountability is developing from the first mentioning of role of corporations in combating of child labor. Needless to say, the resistance of states and industry is so strong, that after the decades of discussing, drafting and compromising the theory still does not have practical usage and is rather controversial. Private corporations are still not subjects of international law, and there is no international mechanism to hold them responsible for their abuses.

However, international law is a constantly evolving system. The parallels can be drawn with the establishment of criminal responsibility of private actors in international law. Current international trends and gradual evolution of international law of human rights make expectations of future adoption of corporate accountability rules visible.

Corporate liability is especially important for child labor issues because of significant role of corporations in combating child labor. “It is imperative that corporate entities participate in the elimination of child labor. Without sufficient self-governance by
companies, the child labor initiative will fail. Presently, significant corporate entities have been willing to create policies to advance the crusade to eliminate child labor violations. This current trend needs to increase and become a cornerstone of all business practice. Undoubtedly, corporate participation in the child labor effort will be an integral part of its success.”

And the influence of TNCs in agriculture is enormous. Seventy per cent of international trade is between TNCs. And “nowhere is the dominance of TNCs more pronounced than in agriculture. Vertically integrated corporations now monopolise almost every aspect of farm production and distribution, from seeds, fertilizers and equipment, to processing, transporting and marketing… Six corporations account for about 86 per cent of world trade in grain, eight account for 90 per cent for the tea consumed in Western countries, three account for 83 per cent of world trade in cocoa, three account for 80 per cent of bananas. Through its ownership of grain elevators, rail links, terminals and the barges and ships needed to move grain around the world, the private corporation Cargill controls 80 per cent of global grain distribution. Four other companies control 87 per cent of American beef and another four control 84 per cent of American cereal. Three agribusinesses (Syngenta, DuPont and Monsanto) account for nearly two-thirds of the global pesticide market, almost one quarter of the global seed market and virtually 100 per cent of transgenic seed market.”

Corporations do not always directly manage plantations, which use child labor. But in most cases they source from those commercial farms, based in developing


countries. It especially happens in cocoa industry. “...When world prices of commodities fluctuate or are already very low, such as in cocoa, farmers in developing countries are pitched against each other to compete to produce for the lowest costs. The result is a trend where children replace adult workers for cheaper labor or are simply used as slave labor.”

Existence of corporate social initiatives can play a leading role in eliminating of causes and effects of this process.

2. International and Domestic Law about Transnational Corporations and Child Labor

United Nations Initiatives.

The main U.N. source on child labor is the Convention on the Rights of the Child (hereinafter CRC), unanimously adopted by the U.N. General Assembly in 1989. The CRC “requires states to establish a minimum age for admission to employment, regulate the hours and conditions of employment, and provide penalties to enforce these provisions.”

Though the Convention does not specify the role of corporations in its provision, it establishes the minimum standards, which subjects of international law should apply. Travaux preparatoire of the CRC did not include any recommendations regarding any role of corporations either. Only notes about private persons apply to the role of parents of children laborers. Moreover, the representative of the United States of America expressed the view that “the way in which [CRC] had been formulated to create


responsibilities for private individuals was rather strange for an international covenant which, after all, could only create binding obligations for ratifying Governments.”

However, Committee on the Rights of the Child had a general discussion day on “The private sector as service provider and its role in implementing child rights” followed by its recommendations. General Comment No. 5 on General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6) refers to these recommendations. Committee focused on “exploring the various issues emerging from privatisation and the assumption by non-governmental organizations or businesses of traditional state functions, i.e. in the health and the education sector, in the provision of institutional care, legal assistance, treatment of victims relevance of this trend to the work of the Committee.” In these recommendations the Committee does not address issues of working children in particular, but it discusses importance of state partnerships with private sector in order to provide good education and health services to children in need. Taking into account direct causes and effects of child labor, these kinds of partnerships would be an immediate help to working children as well. Thus, Committee on the Rights of the Child give non-binding guidelines to states-parties, but it does not impose any obligations on either states or private corporations.

Traditionally, where binding agreement cannot be reached, United Nations provide recommendations, which are secondary sources of international law.

---


44 Committee on the Rights of the Child, Report on its thirty-first session, September-October 2002, Day of General Discussion on “The private sector as service provider and its role in implementing child rights”.
To begin with, from the early 1970s to 1992, the U.N. had been developing and promoting a Code of Conduct for Transnational Corporations.\textsuperscript{45} Though the code was never adopted, consensus was reached on a significant part of the text, which was a good start in a legal development of a corporate liability concept and which can be still used as a secondary source.

The first demonstration of “the integration of the child labor agenda and the child rights agenda via quasi-legal initiatives is seen in the adoption by the U.N. Subcommission on the Promotion and Protection of Human Rights on August 13, 2002, of “Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights”\textsuperscript{46} (hereinafter – Norms) with the Commentary to them. Norms has a reference to the CRC in its Preamble; Article 2 of the Norms contains a disclaimer from the general discrimination rules, stating that children may be given greater protection; and Article 6 states that “Transnational corporations and other business enterprises shall respect the rights of children to be protected from economic exploitation as forbidden by the relevant international instruments and national legislation.”\textsuperscript{47} “Based as it is on the first paragraph of CRC Article 32 and ICESCR Article 10 (3), its basic standard thus may be said to take the human rights rather than labor regulation approach to child labor and not to seek the banning of all child labor, focusing on exploitation rather than harm. As such, it is an instrument that holds out the potential of replacing the 1998 ILO Declaration on Fundamental Principles and Rights at


Work as the basis for future codes of conduct.” Thus, the Norms is another secondary non-binding source of international law, which was adopted to create harmonized guidelines to TNCs to build their policies in compliance with existent human rights standards. It took Sub-Commission 5 years (at least two working group periods) to finalize the text of the Norms. Corporate responsibility still remains a very controversial doctrine. Opposition of the Norms emphasize non-binding nature of the document, however, they are a valid mean of secondary international law and can form a substantial proof of *opinio juris* for the customary international law discussion.

Following these Norms, the U.N. General Assembly adopted a Declaration “A world fit for children” on its twenty-seventh special session in October 2002. This Declaration emphasized a special role of corporations in combating illegal child labor, stating that “The private sector and corporate entities have a special contribution to make, from adopting and adhering to practices that demonstrate social responsibility to providing resources, including innovative sources of financing and community improvement schemes that benefit children, such as microcredits.” As a part of a Plan of Action this it encourages to “protect children from all forms of economic exploitation by mobilizing national partnerships and international cooperation, and improve the conditions of children by, inter alia, providing working children with free basic education and vocational training, and integration into the education system in every way possible, and encourage support for social and economic policies aimed at poverty eradication and at providing families, particularly women, with employment and income-generating

48 Burns H. Weston, *supra*, at 110.

opportunities.” The Declaration also encourages “corporate social responsibility so that it contributes to social development goals and the well-being of children” and urges “the private sector to assess the impact of its policies and practices on children and to make the benefits of research and development in science, medical technology, health, food fortification, environmental protection, education and mass communication available to all children, particularly to those in greatest need.”

It is also important to mention the work of Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises (hereinafter – the Special Representative on TNCs). The Special Representative on TNCs was appointed in 2005 with the following mandate to identify and clarify standards of corporate responsibility and accountability for TNCs with regard to human rights, to elaborate on the role of States, to develop materials and methodologies for undertaking human rights impact assessments, and to compile a compendium of best practices of States and TNCs. In its report on February 2007 the Special Representative on TNCs provides valuable statistical information on practices of TNCs with regard to abolition of child labor. Particularly, this Report sheds the light on geographical and by-industrial-sector picture of companies’ recognition of the prohibitions against forced and child labor and minimum age policies. The Report summed up, “[e]ven though labor rights enjoy the widest recognition by companies, it is nevertheless apparent that some regions and sectors lag in recognizing even the most fundamental labor rights. For example, the prohibitions against forced and child labor are considered to be part of the four

---

50 Ibid, para. 36.
51 Ibid., para. 57.
52 See the official web-site at http://www2.ohchr.org/english/issues/trans_corporations/index.htm (last visited May 8, 2009)
fundamental principles and rights at work; however, the level of recognition of these prohibitions reaches as low as 25 percent by region and as low as 40 percent by sector.”\textsuperscript{53} Accordingly, that and further work of the Special Representative on TNCs plays important role in analyzing advantages and adverse effects of existing policies of TNCs and other businesses with regard to child labor, guiding public authorities in diversities of good private practices and harmonizing materials for the future use.

To conclude on all UN initiatives, the history shows gradual development of the doctrine of corporate accountability. While industry itself and a lot of industry-supportive public authorities have been always extremely resistant to any of those initiatives, international community little by little establish higher standards, which through mass media and consumer opinion noticeably effect actual corporate conduct. Interesting to note that the UN initiatives have bigger success after changing the general trend from drafting a binding code to adopting voluntary secondary sources of international law and developing the issue through independent monitoring, survey, recommendations and, most importantly, cooperation with NGOs and media.

\textit{OECD Guidelines}

While the United Nations was developing its Code of Corporate conduct, the Organization for Economic Cooperation and Development (hereinafter – OECD) established voluntary Guidelines for Multinational Enterprises in 1976, revised in 1979

and republished with Commentary in 2008. In the Guidelines OECD encourages enterprises “within the framework of applicable law, regulations and prevailing labour relations and employment practices… Contribute to the effective abolition of child labour.”54 Commentary to the Guidelines notes that “Through their labour management practices, their creation of high quality, well paid jobs and their contribution to economic growth, multinational enterprises can play a positive role in helping to address the root causes of poverty in general and of child labour in particular. It is important to acknowledge and encourage the role of multinational enterprises in contributing to the search for a lasting solution to the problem of child labour. In this regard, raising the standards of education of children living in host countries is especially noteworthy.”55

The OECD Guidelines recognize “the right of labor to organize and bargain collectively, and bans discrimination in employment. It also provides a complaint procedure against companies. Though there is no enforcement mechanism, labor and management have occasionally resolved their differences through the OECD.”56

The OECD Guidelines, one of just few codes, have qualification and follow-up mechanism. If an interested party is under the impression that, in an individual case, the Guidelines have not been observed, that party should approach the National Contact Point (a government office in a Member country). The National Contact Point should then contact the enterprise, either directly, or through the appropriate business federation, to inform it that a Guidelines issue has been raised. Next, the Contact Point and business and labor representatives should try to resolve the issue at the national level. If entities of the

55 Ibid., Part III, para. 22.
56 Frederick B. Jonassen, supra, at 17.
enterprise in another country are involved, the contact point should contact its counterparts in that country to exchange information and try and resolve the matter.\textsuperscript{57}

Being originally voluntary, the OECD Guidelines avoided severe discussions over its text and, thus, presented less obstacles for implementing, wholly or partially. It is the oldest guidelines, which influenced UN and ILO Norms and Code and with a few editions are used in present time and play a substantial role in developing and harmonizing corporate good practices.

\textit{ILO Corporate Principles}

The ILO has a Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy. It was initially designed as a part of the U.N. Code of Corporate Conduct, but was adopted separately in 1977 (amended in 2000) as a voluntary set of principles, because of too many fruitless discussions around the U.N. Code. With the references to Convention No. 138, Article 1 and Convention No. 182, Article 1, the Tripartite Declaration contains a minimum age provision: “Multinational enterprises, as well as national enterprises, should respect the minimum age for admission to employment or work in order to secure the effective abolition of child labour.”\textsuperscript{58}

The Tripartite Declaration “provides a more specific complaint procedure before a Standing Committee on Multinational Enterprises that can investigate and make specific


findings.”59 It also, however, has no enforcement mechanism. “The bottom line is that the ILO has procedures to investigate situations of child labor, provide hearings, and make reports and recommendations, but it can do little more than discreetly advise or publicly embarrass a signatory. As Daniel Ehrenberg puts it, ‘the ILO relies on moral persuasion, publicity, shame, diplomacy, and dialogue to ensure compliance by member states.’”60

The Cocoa Protocol

The most meaningful instrument for agricultural purposes was so-called Cocoa Protocol of September 21, 2001, between the Chocolate Manufacturers Association and the World Cocoa Foundation related to the growing and processing of cocoa beans, an industry much infused with child labor, illustrates how the regulatory gap between conventional obligations of states and responsibility of nonstate actors can be effectively closed. “Referencing the legal standards of ILO C182, it establishes a quasi-legal regime among relevant actors concerned to eliminate abusive child labor in the cocoa industry.”61 The Cocoa Protocol was initiated by US parliamentarians Harkin and Engel following the wave of news reports, beginning in late 2000, on the presence of child workers on cocoa farms in West Africa working in slavery like conditions. The Protocol (also known as the Harkin-Engel Protocol) was signed by the Chocolate Manufacturers Association and the World Cocoa Foundation and witnessed by a wide range of interests, including its initiators, the Côte d’Ivoire ambassador to the United States and

59 Frederick B. Jonassen, supra, at 16.
60 Ibid.
61 Burns H. Weston, supra, at 106.
representatives of the ILO and NGOs, among them the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco, and Allied Workers’ Associations; the US-based National Consumers League the Child Labor Coalition; and Free the Slaves. In addition, eight chief executives of major chocolate brands and cocoa processors expressed their personal support for the protocol, and the International Cocoa Organization and two European trade associations endorsed it. The Protocol set forth an action plan with specific commitments for stakeholders. In particular, the industry agreed to undertake the following steps: establishment of a “joint” international foundation, and development and implementation of standards of public certification. As a result, Cocoa Protocol created valid legal obligations for those who signed it, and even had some significant developments completely outside of the protocol process, as major corporations begin to experiment with voluntary certification initiatives, principally in the environmental and fair trade sectors. The Protocol even prescribed the survey and monitoring system with accordance to ILO C182 standards. Nevertheless, the industry has failed to satisfy the intent of the Protocol. “None of the activities undertaken under the auspices of the Protocol have attempted to monitor or improve labor conditions within the cocoa supply of any chocolate company. Indeed for seven years, all the major chocolate companies, as well as industry associations and cocoa traders, have maintained that tracking or monitoring conditions within their own supply chains is impossible.”

Accordingly, Cocoa Protocol started a lot of positive corporate initiatives in farming as a


\[62\] See ibid.


whole; however, it did not set any responsibilities for its signatories, and as a result created a so called quasi-legal regime, i.e. became a source of soft law and was not completely implemented.

Domestic Regulation of Corporate Conduct: United States

All the current child labor international standards are binding exclusively upon states (except Cocoa Protocol, when the big enterprises bind themselves into certain commitment). The concept of private accountability in international law in still developing, and there are a lot of disputes around the issue if corporations are subjects of international law with their full rights, obligations and responsibilities or not. While the private accountability concept is not widely accepted, it is essential for national governments to create appropriate domestic legal regimes for TNCs in order to prevent their abusive conduct.

As an example of a right attitude to corporate liability, according to Roe v. Bridgestone Corp. case, “TNCs that have sufficient minimum contacts with the United States may be subject to liability in U.S. courts for international child labor violations committed abroad. This liability may arise under the Alien Tort Statute ("ATS"), which allows aliens to bring claims in U.S. courts for torts in violation of an international treaty or the law of nations.”

As an example of a right attitude to corporate liability, according to Roe v. Bridgestone Corp. case, “TNCs that have sufficient minimum contacts with the United States may be subject to liability in U.S. courts for international child labor violations committed abroad. This liability may arise under the Alien Tort Statute ("ATS"), which allows aliens to bring claims in U.S. courts for torts in violation of an international treaty or the law of nations.”

required them to put their children to work in order to meet extremely high production quotas. At the plantation, children as young as six years old allegedly tapped raw latex from rubber trees, applied pesticides to the trees without any protective equipment, and performed other "back-breaking" work. The employer moved to dismiss for failure to state a claim, but the court denied the motion and concluded that these allegations, if proven, may give rise to a violation of international law. As the Bridgestone litigation continues, TNCs are confronted with the need to identify international child labor standards so as to avoid liability.67

Bridgestone is a comparatively new case, and it is a huge step forward in international corporate accountability concept. Revolutionary, in the U.S. domestic courts corporations, which violate international child labor standards, can be held liable for their abusive conduct. Though there are some obstacles: 1) a corporation has to have territorial or/and economic connection with the United States; 2) application should be brought by an alien in order to qualify; 3) there should be a strong evidence of abusive conduct.

There is another rule in the U.S. legal system, which can help combat agricultural child labor. According to the Sanders Amendment of 1997 to the Tariff Act of 1930, 19 USC §1307, imports of articles produced or manufactured with bonded child labor are prohibited. Moreover, under US law, a mandatory enforcement approach is possible. Considering that the ban on child labor produced imports has been in effect since before the Harkin-Engel Protocol, the U.S. Court of International Trade can force the U.S. Customs Service “to enforce its own rules and regulations prohibiting the importation of

67 Ibid., at 207-208.
any good produced by forced child labor.” The ILRF, along with the Fair Trade Federation and Global Exchange, has been pursuing this parallel legal strategy with regard to cocoa and chocolate industry, unsatisfied with Cocoa Protocol and industry’s weak commitment to reform.

Summing up existent international law on corporate liability for violation of child labor rights, the following trends can be extracted. First, the international community chose the way of voluntary initiatives in order to soften resistance of corporate conglomerates and effect them indirectly through secondary means and public pressure. Second, non-binding nature of international regulations leaves the U.N., OECD and ILO with lack of ability to impose sanctions. All international conventions are binding for the states and do not trigger any responsibilities for private sector. However, TMCs can be held responsible under domestic regimes. The U.S. tort provisions and Bridgestone case are excellent examples to it. Finally, at this point the main role of international organizations and international law with regard to corporate conduct is to ensure legitimacy and strength of established international standards and develop new higher standards, though specific industry guiding and sanctioning are prerogatives of NGOs and national authorities.

---

3. Practices of TNCs and Child Labor

Causes of use of child labor v. Causes of good practices

There is no secret that some well-known multinational corporations have or had malpractices of using child labor in their factories and sweatshops. These bad practices have certain causes, which become direct or indirect obstacles to abolition of child labor through private action by TNCs. Table 3. Causes of negative v. causes positive of impacts of TNCs, which can be found in the Appendices, specifies causes of both bad and good practices of TNCs. The main reason to put those together is to show that the main cause of malpractices, bigger profit, can be also achieved by combating of child labor instead of using it. And accordingly, certain things, such as good public image, consumer pressure, competition, long-term benefit, can stimulate TNCs to implement and invest in good practices combating child labor within their reach.

Corporate Codes of Conduct and Labeling: failures and success.

Though ethical values stand behind economic causes of good practices of TNCs, these practices are often called ethical schemes because of their voluntary basis. Among ethical schemes related to child labor the most common are social clauses, corporate codes, labeling and commodity-based agreements. Each of them has their positive and negative sides.

Table 4. Ethical practices of TNCs: failures or success, which can be found in the Appendices, provides information and criticism on the most common TNCs practices:
corporate codes of conduct and labeling. Apparently, these practices are most popular in manufacturing; however, the majority of working children in many developing countries are employed in agriculture. Coffee and cocoa industries have become the focus of substantial public pressure. In the table there are several examples of ethic initiatives in textile and leather industries (they played important role in the history of developing of good practices), however, the main focus is on agriculture. And the last column of the table, called “Criticism”, bring together failures and success of the most famous examples of good practices.

Overall, modal codes have a positive impact on developing and harmonizing of good corporate practices. History shows that modal codes, initiated from different sources, have bigger success if they vary depending on industry and region. Regional codes reflect more traditional, cultural, economic and political particularities of corporate conduct in certain geopolitical environment. And codes adopted for certain industry are better focused on particular issues of human rights violations in particular industry.

Every year the number of codes of conduct is growing under pressure of NGOs and consumers demands. This definitely advantages the process of abolition of child labor per se, however, it also has some adverse results.

First, implementation can be problematic. Often “codes launched with much publicity in an import country are unknown, unavailable or untranslated at producing facilities”, and the absence of standardized principles and procedures make it very difficult for consumers and investors to assess the value of the claims formulated and feeds suspicions about internal monitoring processes.69 Internal monitoring systems in

---

order to be effective presupposed that the enterprise would train a sufficient number of competent staff to assess the effective implementation of the code. The ILO reports, that in the globalized textile, leather and footwear sectors “only a few enterprises were in a position to implement such arrangements. In the majority of cases, it was the quality controllers of the goods who had the task of verifying the application by subcontractors of the principles contained in the codes. The lack of sufficient training meant that this monitoring could not be carried out satisfactorily. Moreover, the credibility of the enterprises concerned was not assured as the process was an internal one and consequently to be viewed with caution.” All standard and modal codes if conduct, developed by NGOs and trade unions, make provision for the establishment of an independent monitoring system outside the enterprise. The experience of agricultural codes in cocoa industry also did not reach positive effects.

Second, diversity of codes of conduct is striking. Depending on industry and main NGOs and mass media concerns, companies develop different focuses in their codes. For instance, in textile more attention is drawn to workers rights, though in chemical and oil industries – to environment issues. The existence of codes per se does not guarantee fair child labor provisions. Among 215 codes of conduct of different enterprises examined by ILO, only roughly half of them concerned child labor.\(^{70}\) Moreover, the tendency to target export-oriented industries may have limited impact on reducing child labor overall. Limited number of codes in agriculture shows more positive results, mainly because the issue of child labor in agriculture is more crucial.

Third, all created model codes are just voluntary guidelines. They had a positive harmonizing effect on those, who was already willing to establish code of conduct, but did not create any obligations and responsibilities for those, who never followed ethical rules.

Turning to the labeling programs, needless to say, they went through significant developing process, and almost all of the contemporary campaigns have tremendous positive impact on labeled/certified products, including non-use of child labor during production process.

Addressing to consumers TNCs use labels to compete and earn good public standing. However, ILO reported, “no definite progress has been made in this area, essentially due to the complexity of subcontracting networks and the difficulties involved in integrating a credible and verifiable label into the entire supply chain.” Moreover, ILO suggests that social labeling programs have “both helpful and adverse” effects. Looking at the positive side, labels “may serve to improve working conditions or compliance with labour laws”; and “[s]ome have raised funds for education programmes for former child workers.” But on another side, they can place an added financial burden on participating enterprises and threaten jobs. “Some child labour labelling initiatives have drawn criticism for allegedly driving child workers into less formal sectors where they face even greater exploitation.”

ILO also warns, “[w]hat appears evident is that the market alone, without a coherent international framework, has been ineffective to date in developing uniform and

generally accepted standards that could help promote benefits and prevent the risks of labelling efforts.” Such internationalized standards, it argues “could prevent confusion among consumers arising from the diversity of criteria used, lack of clarity of meaning among various labels, risk of lost credibility with unverifiable claims, and chance of illegality under national and international regulation.”

CONCLUSION

During the discussion on the draft of the Convention No. 182 and the Recommendation to it Portugal made a very reasonable comment: “They do not contain any references to the fact that all forms of child labour are intrinsically reprehensible, that the final objective continues to be the ultimate abolition of all child labour and that these instruments represent just one small step in this direction. It would be impossible, in fact useless, to approve instruments which call for the immediate abolition of all forms of child labour, as they would meet with little or no acceptance by ILO Members.”

The existent binding international child labor instruments do have certain flaws; however most of these flaws, like broad character, ambiguity and vagueness of some previsions, can be explained by the long negotiations and hard-to-reach compromise between the diverse states. It is a well-known evolution mechanism for any international standards: step-by-step standards develop from the non-binding principles and general practice into the high-level widely-approved imperatives.

In case of current situation in child labor rights, “[t]he complexity of the problem must not prevent research or the development of international cooperation to find a

---

73 Ibid.
74 ILO Report IV (2A), supra.
solution” (Finland)\textsuperscript{75}. The next step in the development of international law in this area should be the further negotiating of existing or new secondary and primary sources with the higher standards and improvements of the main obstacles. The special attention should be drawn to working on elimination of causes of child labor, understanding of political, economic and cultural relativism, and readdressing such issues as definition of “hazardous work” (which specifically applies to hazardous agricultural activities) and flexible education requirements (to allow young people to work part-time even before they finish compulsory education).

TNCs play important role in step-by-step international standards development approach. Exactly TNCs are the main hunters for inexpensive labor and reveal the biggest numbers of severe exploitation of children. But following existing standards as part of their corporate codes or well-known labeling campaigns, TNCs, on one hand, can earn better reputation and, as a result, bigger profits, and on another hand, eliminate child labor directly in their facilities and help to make non-use of child labor universal.

The existent international law does not have any binding rules for corporations, however it suggests a number of guidelines for multinationals themselves and states-hosts of TNCs in order to harmonize good corporate practices. Another important role of international law in this area is developing of the doctrine of corporate accountability, which would allow international forums try corporate abusers and impose sanctions on them. Unfortunately, not all initiatives to create standard corporate code of conduct were successful. The main obstacles usually are lack of good will of corporations, economic ineffectiveness, lack of good monitoring mechanism and lack of legal obligations.

Voluntary nature of modal codes give TNCs flexibility, but it is often results in nominal

\textsuperscript{75} Ibid.
codes of conduct, which omit important norms, or do not provide any implementation mechanism for the declared norms. More stringent screening and monitoring measures require from TNCs bigger commitment and substantially bigger expenses. Each guideline, therefore, should include a full and true picture of the market and evaluate long-term effectiveness of any cost-effective corporate measure with regard to combating of child labor. Modal codes should avoid generalizations, and apply to particular region and particular industry. Nevertheless, universal standards and successful practices can be smoothly transferred from one industry to another. For instance, big experience in textile industry can be successfully used in agriculture, with a few changes made under advice and control of ILO and Special Representative on TNCs.

Generalization of provisions in codes can lead to code ineffectiveness, so each code should be created and monitored with case-by-case approach. Thus, the role of international codes is to establish universal standards, which have to be followed by every TNCs, regardless of what kind of internal regulations they use – codes, labeling or other kinds of good practices. For instance, one of the main principles, which have to be implemented in every TNCs regulation, is the best interest of the child and focus on creating meaningful alternatives for children dismissed from work. Moreover, working children should be engaged in a discussion about possible solutions to the problem and assure that their best interests are given a primary consideration.

Overall, a lot of the contemporary initiatives, and especially international certification programs, consider the flaws of their predecessors and have noticeable success in elimination of child labor among agricultural producers.