



International
Labour
Organization



Regional Initiative
Latin America and the Caribbean
Free of Child Labour

EXECUTIVE SUMMARY

ANALYSIS OF THE PROCESS OF
DEVELOPMENT AND ENFORCEMENT

OF THE HAZARDOUS LABOUR LISTS IN

LATIN AMERICA AND
THE CARIBBEAN



CASE STUDY IN
SEVEN COUNTRIES

Introduction



The Regional Initiative Latin America and the Caribbean Free of Child Labour (RI) is an intergovernmental cooperation platform with active participation of employers' and workers' organizations, which, through social dialogue, contributes to optimizing the performance of national policies for the prevention and eradication of child labour and the protection of adolescent workers and the region's progress towards achieving Target 8.7 of the Sustainable Development Goals (SDG)¹.

The RI 2019-2021 Strategic Plan includes two results that are related to the approval and effective enforcement of the Hazardous Child Labour Lists (HWL - LTP-its acronym in Spanish). Result 2, which refers to "The countries intensify the enforcement of their strategies to withdraw children and adolescents from child labour under the minimum age, with special attention to those in a situation of hazardous child labour (HCL or TIP-its acronym in Spanish)" and result 3 which indicates "The countries strengthen their strategies for the protection and/or retraining of adolescents of legal age for work (C182 Art. 3. d)."

Phase II 2019-2021 of the RI is focused on strengthening national action and there the HWLs are a valuable tool, the process of establishment, practical application and updating of which is currently a challenge in different countries. This study seeks, based on the analysis of the HWL process in seven member countries of the RI, to identify technical criteria to optimize and strengthen the use of this tool within the framework of public policies, the enforcement of current regulations and protection of the rights of children and adolescents.



RESEARCH CARRIED OUT IN ARGENTINA, CHILE, GUATEMALA, HONDURAS, PANAMA, PERU AND THE DOMINICAN REPUBLIC

OBJECTIVES

1. Identify the institutional, administrative and technical processes developed in the establishment, enforcement and updating of the HWL in the prioritized countries.
2. Develop criteria and recommendations to improve the institutional processes of the HWL.
3. Identify good practices.

¹ Target 8.7: Adopt immediate and effective measures to eradicate forced labour, end the contemporary forms of slavery and human trafficking and ensure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and, by 2025, end child labour in all its forms. See: <https://www.ilo.org/global/topics/sdg-2030/goal-8/target-8-7/lang-es/index.htm#:~:text=En%20conformidad%20con%20la%20Meta,de%20seres%20humanos%20para%202030.>

1

Methodology

The selection of the seven countries analyzed responded to the following criteria: i) countries that were developing processes to update their HWLs, or had planned to do so in the short term; ii) countries that, due to the particularities of the processes, could provide information that could be used in various realities within the framework of the RI and iii) countries that had expressed interest in participating in the study and sharing key information.

Due to its exploratory nature, the study sought to identify and describe the different aspects related to the establishment and updating of HWLs that, beyond the differences in institutional and organizational structures, concentration sectors and modalities of hazardous child labour, could add value to a common framework of knowledge and experience in the matter. It was sought to record the perceptions, representations and opinions of government referents and employers' and workers' organizations, in line with international regulations on the matter, particularly the ILO Conventions No. 138 and No. 182 and their respective recommendations.

The information gathering techniques used



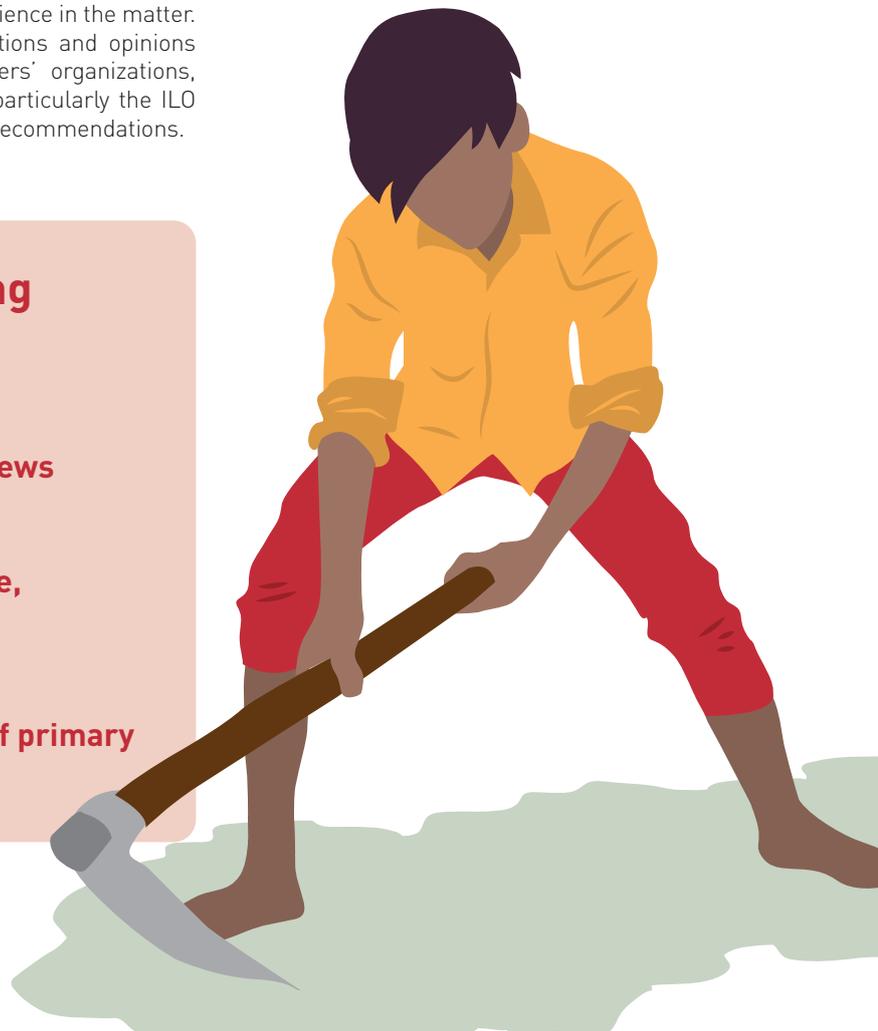
Semi-structured interviews



Scheduled questionnaire, answered electronically



Documentary analysis of primary and secondary sources



The research process was coordinated with the RI Technical Secretariat team, which facilitated contacts with the Government Focal Points, employers and workers of the seven countries participating in the study and had the support of specialists from the Bureau for Employers' Activities (ACTEMP) and the Bureau for Workers' Activities (ACTRAV).

2

Coordination and political-institutional framework

Except for one case, in the countries included in the study, the institutional and organizational responsibility for initiating the processes to establish, approve and update the HWL lies with the Ministries of Labour, which through different instances coordinate the National Commissions² constituted as spaces of coordination of policies and participatory social dialogue to promote measures for the prevention and eradication of child labour and the protection of working adolescents.

For the formalization of the HWLs, the countries included in the study have opted for standards of different rank, although the regulation (ministerial agreement, government agreement, ministerial resolution, supreme order) predominate as the instrument of formalization. In this process, horizontal and vertical coordination of government areas and the involvement and commitment of employers and workers play a central role, complemented by other social, sectoral and institutional actors.

2.1 The horizontal and vertical coordination of government areas

Cooperation and coordination, both horizontal between different agencies and sectors of the national government, and vertical, between different levels of subnational government, is a central component to guarantee the implementation of policies aimed at protecting the rights of children and adolescents. It is a necessary condition because it contributes to promoting access to information (collection, processing and exchange) so that it is operational for the interventions of each area, all of which supports the allocation of resources for detection, sanction, restoration of rights and monitoring of the policies implemented.

The decision to advance in the prevention and eradication of child labour and its worst forms is expressed in Argentina's National Plan for the Prevention and Eradication of Child Labour and Protection of Adolescent Labour 2018-2022; in the National Strategy for the Eradication of Child Labour and Protection of Adolescent Workers 2015-2025 "Crece feliz" (Grow happy) of Chile; in the 2016-2020 Roadmap of Guatemala; in the Strategic Planning of Honduras 2016-2020; in the Road Maps of Panama 2016-2019 and the Dominican Republic 2010-2012 and in the National Strategy for the Prevention and Eradication of Child Labour 2012-2021 "ENPETI" of Peru.



The National Commissions are suitable spaces to implement horizontal and vertical cooperation and coordination because, with some variations between countries, they are set up with representatives from the sectors of Justice, Human Rights, Education, Health, Social Development, Production, Childhood and Adolescence, Women, the Public Prosecutor's Office, the Supreme Court, Agriculture, Interior, Culture, Statistics, Sports, Youth, Indigenous Affairs, among others. In some countries, these National Commissions replicate their format in the regions, departments or provinces under the leadership of subnational authorities, with whom vertical coordination is maintained.

2.2 The participation of the employers' and workers' organizations

In the countries analyzed, it has been identified that the employer sector is represented in the National Commissions by national business associations (chambers, councils, confederations) and the limited participation of union referents of small and medium-sized companies is evidenced, where there are more risks of unregistered and eventually dangerous adolescent labour, as well as representatives of the informal sector and significant business actors in the rural sector, where the greatest amount of hazardous labour and unregistered adolescent labour is concentrated.

To stimulate the participation of employers' organizations, some governments have promoted synergies through the Business Networks, and in the respective national chapters

2 In some countries they are also called National Committees, National Steering Committees, Inter-Institutional Committees, among others, but they have the same attributions of policy agreement spaces.

of the UN Global Compact initiative, the objectives of which coincide with regard to the achievement of the Sustainable Development Goals (SDG). These networks are alliances between the public sector and the private sector (APP) and can become proactive environments for the establishment and enforcement of HWLs.

For its part, the working sector has an active participation in the National Commissions and, due to its structure by branches of production, its knowledge of the characteristics and production modalities and its presence in the territory, are references to identify critical sectors and territories of child labour and unregistered adolescent labour, to identify dangers and risks of activities and jobs, to inform and educate adolescents of legal working age, their families, employers (often family businesses), and provide specific information to the relevant government areas.

The workers' organizations of the countries under study coincide in highlighting their commitment to the dissemination of the HWL. However, their participation in the discussion and dialogue processes for the determination of the HWL presents variants, with an interesting potential for development. A particular case is that of Peru, where union representation³ falls on people linked to the National Superintendence of Labour Inspection (SUNAFIL), which gives them a more technical role associated with experience in this field.

2.3 Participation of other social actors

The participation of organizations and leaders of civil society in the prevention and eradication of child labour and hazardous labour is growing and is especially important in areas and activities with the highest risk of informality in both rural and urban areas. It is in this context that they can make significant contributions, with knowledge and specialized technical personnel in the process of determining, applying and updating the HWL.

Regarding the direct participation of children and adolescents, it is - in the opinion of the testimonies - an issue pending resolution due to the difficulty of establishing which organizations could be included to guarantee representativeness and safeguard the best interests of the child, and effectively integrate into the current consultation mechanisms.



In some countries, the existence of exchanges with universities and research centers for consultation or advice related to these activities has been reported, and also the express intention of incorporating representatives of the academy to the work tables on HWL, particularly in those matters of technical content such as occupational medicine, risk and safety assessment, specific production processes, organization and assessment of tasks, etc. It can be assumed that the importance of these technical contributions will grow in the near future as a consequence of the impact of accelerated technological change on productive activities, and of the transformations caused by the effects of the COVID-19 pandemic in the labour world. In those countries where there are significant percentages of the population belonging to indigenous peoples, consultation experiences have been developed that should delve deeper within the framework of ILO Convention No. 169⁴.

3 Sole Union of Labour Inspectors (SUIT) of SUNAFIL, which in turn is part of the Autonomous Central Union of Peruvian Workers (CATP- acronym in Spanish).

4 Convention No. 169 of ILO on indigenous and tribal people in independent countries. United Nations Declaration on the Rights of Indigenous Peoples. Lima: ILO/Regional Office for Latin America and the Caribbean, 2014. 130 p. See: https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/documents/publication/wcms_345065.pdf. By 2014, Argentina, Chile, Guatemala, Honduras, and Peru had ratified this Convention.

3

Reasons for updating the Lists of Hazardous Jobs

3.1 Why update them and for what?

Among the reasons that justify updating the HWLs are the inclusion of the gender perspective; the cultural adaptation of the instruments; the magnitude of some modalities such as child, artistic and rural domestic labour; the growing migratory flows in the region, with a significant presence of children and adolescents and finally, but not less relevant, the findings of recent studies and research that identify risks and dangers derived from the tasks and activities performed by adolescents and not anticipated in the HLL. All this highlighted by the new challenges posed by the socio-economic crisis associated with COVID-19, the effects of which will be felt for several years in Latin American and the Caribbean.

Workers' organizations highlight the need to emphasize working conditions, identify hazardous jobs by critical sectors, by activity and by geographic area, including child domestic labour. Employers' organizations, while recognizing the importance of keeping the HWLs up to date, agree that, on many occasions, as they are currently designed, they discourage the hiring of adolescents of legal working age. It has been noted that this is particularly noticeable in the formal sector of small and medium-sized enterprises, in potentially youth-employing activities.

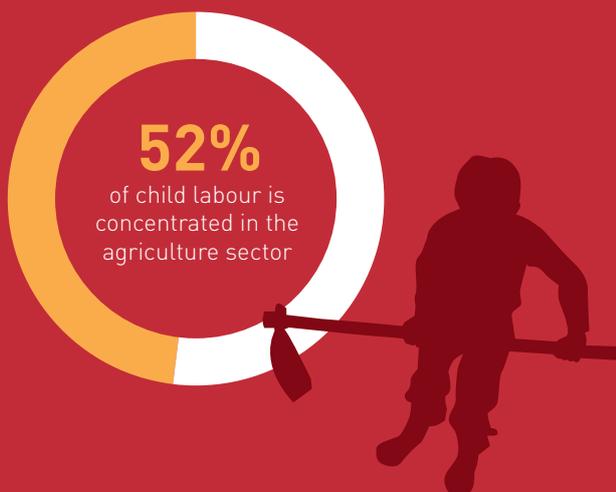
In a complementary manner, it has been possible to identify that not all countries have the same level of political will, nor are there the same institutional resources to undertake the updating processes of the HLL. There are those that have permanent technical teams and have institutionalized the participation of tripartite and other key actors in the National Commissions, while others show difficulties in this regard.

3.2 The update and the information sources in the national contexts

According to the ILO, about 52% of child labour is concentrated in the agriculture sector, which shows that rural and periurban areas are more exposed and therefore require differentiated and more active policies to reduce gaps and contribute to the prevention and eradication of child labour, especially in hazardous forms, and the promotion of protected adolescent labour⁵. However, the insufficiency of up-to-date information, disaggregated by sectors, type of products, activities and geographic areas is a challenge shared by practically all the countries under study.

A recent joint ILO-FAO report points out that "knowledge gaps" persist and "by virtue of the vastness of the matter, the diversity of situations covered and overlapping topics dealt with, the need to jointly increase the available knowledge base is evident on child labour in agriculture, in order to improve the actions that are implemented to prevent and address the problem."⁶

Along these lines, several countries included in the study have applied the Child Labour Risk Identification Model (CLRISK) or its variant, the Child Labour Vulnerability Index (CLVI), and the experience allows us to appreciate the potentiality of its results⁷ to complement the information available in the countries and its use for processes such as establishing and/or updating the HWL, considering the particularities of the territory and the weight of the factors associated with child labour.



5 See: Second Socio-Labour Declaration of Mercosur 2015. https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/---ilo-buenos_aires/documents/publication/wcms_506310.pdf

6 See: https://www.iniciativa2025alc.org/sites/default/files/ti_agricultura_ALC-FAO-OIT_FullReport.pdf

7 Minutes, Technical Exchange Meeting of Implementation of CLRISK in pilot countries of LAC, Brasilia, 14-15/9/2017; presentations of the V Meeting of the Focal Point Network of the Regional Initiative, Lima, 22-25/10/2019.

The update processes in the countries analyzed are briefly described below.

Argentina

The establishment determination of the first HWL began in 2004 by the Ministry of Labour and Social Security (MTySS) and was approved by decree in 2016⁸. There are coincidences regarding the need to update it because it is very general and does not distinguish between nature and conditions. This lack of precision hinders inspection and control activities and limits the possibility of offering specifications for the employer, who, faced with the risk of being sanctioned, does not hire adolescents of legal working age or does not register them. The latest information available is the Survey of Activities of Boys, Girls and Adolescents (EANNA) 2017 and CLRISK 2019, with data from the 2010 and 2016 Census⁹. These sources identify the Northeast (NEA) and Northwest (NOA) regions and large agglomerates such as those with high rates of rural and urban child and adolescent labour and greater probabilities of risk.

Chile

It advances towards the third update of the HWL in the framework of Law 21.271 enacted on September 30, 2020 and in the process, the participation of the Under Secretariat for Children and the Ombudsman for Children is anticipated, institutions created after approval of the HWL in force in the country¹⁰. In addition to the data produced by international organizations and sectorial research, the Labour Directorate created a program for the control of adolescent work that allows the collection of data on accidents in adolescents and conditions of safety and health at work. The importance of the participation of the Ministry of Health in the production of information that significantly complements that produced by other public agencies, including health and safety at work, has been highlighted. The concern for the professional training of adolescents is on the agenda to be related to the HWL. The challenge is to include the subject of training in health and safety at work in schools.

Guatemala

Has expressed interest in updating the HWL because the current one is very general, it does not contemplate the local or geographical reality of the country. The HWL includes illicit forms of child and adolescent labour¹¹ and, consequently, the oversight is the responsibility of the Ministry of Labour

and Social Welfare, the Public Prosecutor's Office, and the Office of the Attorney General of the Nation. This multiplicity of agencies generates greater challenges of articulation in the process of enforcement and monitoring of the cases detected, particularly associated with the different processes of sanction and restitution of rights that illegal forms entail. At the time of the study, the information available for future updates of the HWL are data from the Survey of Living Conditions (ENCOVI) 2014, which identifies rural activities as critical sectors for the 14 to 17 age group, especially in the Western Region, and urban child labour in the Central Region. The country completed applying CLRISK and it is considered relevant information because it offers a complementary territorial characterization.



8 The HWL begins at the MTEySS (Ministry of Labour) but in 2005, Law 26061 on the Protection of Children and Adolescents is passed, which designates the National Secretariat for Children, Adolescents and the Family (SENAF acronym in Spanish) as the enforcement authority and requests the file. The Ministry of Justice, which has representatives in the National Commission for the Eradication of Child Labour (CONAETI acronym in Spanish), conducted a public consultation through a [0800] to collect information on activities and modalities of hazardous child labour. Occupational Health and Safety technicians participated and professionals from different disciplines were consulted. The file returns to the MTySS and CONAETI coinciding in time with the presidential election process.

9 See: <http://www.trabajo.gob.ar/estadisticas/eanna/informe.asp>

10 Law 21,271 published on 10/06/2020, in the final stage of this study, modifies the Labour Code regarding the protection of children and adolescents. It includes significant changes such as the replacement of the minor, by adolescents of legal working age, and the replacement of the term child, by that of boy, girl and/or adolescent. It defines dangerous work for children and adolescents and prohibited activities for that age group, which will help to optimize the update of the current HWL.

11 ILO Convention No. 182 points out that the HWL should only establish the hazardous activities, given that the illicit ones are already defined in paragraphs 3.a; 3.b and 3.c.

Honduras

Carried out its review two years ago, but expresses interest in updating the HWL. It points out that the current list is too general and its wording is not understandable or friendly to its recipients. The document that presents the government planning for the period¹², highlights the lack of precise data on the magnitude and characteristics of the problem, including the worst forms. In 2014, the highest concentration of child labour was found in rural areas. A highly vulnerable sector is that of children and adolescents of indigenous peoples and those affected by migration for labour reasons, about which information is also insufficient¹³. The challenge of having a culturally adapted instrument is identified. Experiences have been carried out in the field to verify the consistency of the HWL, surveying directly with young people and their families the different tasks and their danger.

Panama

It points out that the previous HWL tended to prohibit and highlights that the current one, the result of consultations with all key actors and an information analysis with an appropriate technological instrument, includes the identification of activities that adolescents can carry out based on the identified risk and in occupational safety conditions¹⁴. With the support of ILO, the list was supplemented with files and guides on hazardous child labour in various activities. Likewise, a computerized detection system was developed and implemented in the urban informal sector. There are coincidences in the need to update it.

Peru

In the HWL -currently in the final phase of review and update- deficiencies are pointed out due to applying different criteria to define activities. Coincidentally, it is prohibitively biased and tends to discourage adolescent work on activities that might be permitted. Its dissemination and knowledge by the different sectoral actors is limited and its use has not been promoted among local governments. The workers' organizations point out the difficulties of labour inspection in the territory and the lack of responses to child domestic labour. Employers' organizations emphasize the need to measure the magnitude of the informal economy and the difficulties of its control¹⁵. According to statistical information available in 2016, the critical sector of child and adolescent labour is rural¹⁶.

Dominican Republic

It approved its first list in 2004 and, according to the sources consulted, although it has not generated difficulties in the execution of its plans, interest in updating it is appreciated. Workers' organizations recognize that the HWL is a tool to position the issue of child labour and advance its prevention and eradication. The official data available on the general overview of child labour is from 2009.



12 Strategic planning Honduras 2016-2020, a country free of Child Labour and its Worst Forms.

13 ILO. What we need to know about migrant children and child labour in Central America.2016. (available only in Spanish). See: https://www.iniciativa2025alc.org/sites/default/files/Lo_que_necesitamos_saber_ninez_migrante_ti_centroamerica.pdf

14 ILO. Study for the revision and update of the hazardous work list in Panama, Quito. 2017.

15 Actions are being undertaken (2019-2021) to promote and drive productive chains free of child labour in sectors with high incidence and/or risk for child labour, strengthen social dialogue and the institutional framework of the Regional Directive Councils for the Prevention and Eradication of Child Labour (CDRPETI) and collaboration with the National Association of Municipalities of Peru (AMPE) and the National Assembly of Regional Governments (ANGR) to implement the Municipal Intervention Model against child labour at the national level.

16 National Specialized Survey of Child Labour (ETI), 2015. Child labour indicators, INEI, 2016 (https://www.inei.gob.pe/media/MenuRecursivo/publicaciones_digitales/Est/Lib1426/libro.pdf), analyzed jointly with the National Household Survey (ENAH0) 2015 in: Magnitude and characteristics of child labour in Peru: Report 2015 - Analysis of the National Household Survey (ENAH0) and the Survey on Child Labour (ETI), ILO, 2016 (http://white.lim.ilo.org/ipec/documentos/informeti_2015_peru.pdf). 52.3% of the population between 5 and 17 years old compared to 16.2% in urban areas.

4

Enforcement and follow-up process of the Lists of Hazardous Jobs

The UN Committee on the Rights of the Child has reiterated in its periodic reports on the countries of Latin America and the Caribbean the need to **improve vertical and horizontal coordination of government agencies**, to increase human and budgetary resources, to increase the national scope and strengthen subnational and local spaces for the protection of rights and improve the coordination of the different agencies involved .

In most of the countries under study there are coordination deficits between labour inspection and systems for the protection of the rights of children and adolescents. This is attributed in some cases to the weaknesses of the inspection systems and in others - sometimes simultaneously - to the weakness and/or complexity of the rights protection systems.

4.1 Dissemination and knowledge of the Lists of Hazardous Jobs

In the countries included in the study, dissemination and awareness-raising activities of HWL have been carried out with different intensity, geographical and temporal extension. However, there are coincidences that the dissemination and information on HCL and HWL has not been clear and sufficient, especially at the subnational levels , where greater difficulties are identified in implementing them.

4.2 The inspection systems facing child labour and the Hazardous Jobs Listings

The training of the inspection teams in the detection of child labour is important because when the origin of the inspection is of a general nature, it may happen that information on child labour is not collected and, consequently, the procedures to identify and attend to it are not activated based on current regulations or, on the contrary, that when cases are identified, the procedures for their referral to the rights protection system cannot be activated.

The countries included in the study present different situations with regard to inspection systems and the enforcement of HWLs.



17 For the purposes of this document, it is worth noting the definition of a comprehensive protection system for children offered by the UNICEF-ECLAC study on systems for the comprehensive protection of children and adolescents, as: "...it is understood as a comprehensive protection system of children the set of organs, entities, mechanisms and instances at the national, regional and local level, oriented to respect, promote, protect, restore and re-establish the rights of children and repair the damage in the event of the violation of the same, established by national laws for children. It will also take particular account of the relationship mechanisms between the country's public and private institutions, their interactions and complementarities, especially describing the relationship between the State and civil society organizations." Morlachetti (2013), p. 12.

18 The subnational level refers to the division into regions, provinces, municipalities or communes, which receive different names depending on whether they are federal or unitary countries.



Argentina

The MTEySS (Labour Ministry) of the Nation has approximately 400 national inspectors informed and trained in child labour and HWL. The Coordination for the Prevention of Child Labour and Protection of Adolescent Labour (COODITIA) of the MTEySS is the unit that inspects and has differentiated records for administrative sanctions (unregistered adolescents) and for criminal sanctions, but it does not have the primary control competence¹⁹. As 90% of the cases that the inspection identifies are unregistered adolescent work (mainly in the rural sector), it is considered prohibited and the amount of the penalty is increased. According to COODITIA statistics, more than 60% of adolescent workers do not have parental authorization to work²⁰.

The provinces have the primary control competence. Consequently, within the framework of the National Work Regularization Plan²¹, when the MTEySS (Ministry of Labour) detects unregistered work or child labour, it applies two procedures: a) it prepares the violation certificate and sends a copy of the certificate to the corresponding province so that it can substantiate the administrative labour procedure that must conclude with the application of a fine; b) send a note with a copy of the document drawn up to the Provincial Commission for the Eradication of Child Labour (COPRETI) so that this entity takes charge of coordinating with the competent areas the protection of the child or adolescent who was found working. The Ministries of Labour and the inspection teams at this territorial level know little or are unaware of the HWL and do not have sufficient human and technological resources. Child domestic labour is considered by government and worker referents a critical sector that should be specifically addressed in the next update of the HWL²².

19 The regulations belong to the national jurisdiction (Undersecretary of Labour and Social Security Supervision, MTEySS): Resolution (SsFTSS) 195/2013 Annexes I and II: Labour Police. Oversight of child and adolescent labour. New forms.

Material for the inspection of adolescent labour, MTEySS, 2017: includes models of records of adolescent labour and infraction records. See: http://trabajo.gob.ar/downloads/inspeccion/2017_guia_de_inspectores.pdf

20 With regard to adolescents who work, as long as they do not live independently of their parents/tutors, need their authorization to work (in all the Argentinian labour regulations of all the activity sectors).

Law 26390 modifies the Law of Work Contract – Modification of the laws 20.744 (t.o. 1976), 22.248, 23.551, 25.013 and the decree law 326/56.

Art. 3 – Substitute Art. 32 of Law 20.744, which will read as follows: Art. 32: Capacity. People as from eighteen years old (18) can execute a work contract. People as from sixteen (16) years-old and under eighteen (18) years old, can execute a work contract, with the authorization of their parents, guardians or tutors. Such authorization is assumed when the adolescent lives independently from them.

It is also explicit in Law 26.727/11 of the Agrarian Labour Regime and in Law 26.844/13 Special Regime of Work Contract for Staff of Private Households Law 26.727/11: <https://www.uatre.org.ar/Attach/ley26727.pdf>

Law of Work Contract 20.744 (modified by Law 26.390): <https://www.argentina.gob.ar/normativa/nacional/ley-26390-141792>

Law 26.844/13: https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/---ilo-buenos_aires/documents/presentation/wcms_229195.pdf

21 See: https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/documents/publication/wcms_371231.pdf

22 In the sector of male and female workers who perform household chores, Law 26.844 / 13 of the Special Employment Contract for Staff of Private Households, in Title II articles 9 to 13, referring to the Prohibition of Child Labour and the Protection of Adolescent Work, defines some guidelines for the work of children and adolescents such as the prohibition of employing people under 16 years of age, the obligation to have a certificate of physical fitness for adolescents 16 and 17 years old. Tasks considered hazardous for that age group are not detailed, but it is specified for adults and the referents consider that this includes those under 18 years old.

Chile

The Ministry of Labour and Welfare (MTyP) has a Department for the Eradication of Child Labour, responsible for implementing public policy and coordinating actions and a National Advisory Committee for the Eradication of Child Labour and Protection of Minors. The Labour Head Department that depends on the MTyP has a clear punitive profile. They do not have a protocol for the HWL and apply a special protocol for the control of the work of children and adolescents that assesses compliance with administrative requirements and the type of activity. It has been pointed out that, in the poorest regions where there is greater labour informality, the inspection capacity is weak and compliance with labour rules is the exception. Domestic work is a critical sector on which the government has tried to advance with an internal household survey.

Guatemala

Implements a Single Inspection Protocol for the detection of child labour and its worst forms. Labour inspectors are national, they have training on labour legislation but not on child labour and HCL. When the inspection detects children under 18 years-old who are working, it carries out the preventions and informs the General Labour Inspector (GLI). The GLI has difficulties in applying the HWL due to the institutional complexity that requires coordination between various government agencies. The study collected testimonies regarding the high rates of informal and family subsistence work, particularly in agriculture, where inspections do not arrive and the protection systems show significant weaknesses. Child domestic work is highly prevalent and requires differentiated attention.

Honduras

The responsibility of the inspection corresponds to the Ministry of Labour and Social Security (STSS), through the General Head Department of Labour Inspection. The STSS has eighteen regional offices reporting to regional headquarters. It has approximately 160 inspectors. The testimonies coincide in pointing out the insufficient training of the inspectors in child labour and HCL and the differences in the availability of material and human resources between the regions. There is agreement on the need to define policies that protect child and adolescent migrant workers and child domestic work, often hidden and naturalized by current social and cultural models and perceived in a positive way as part of the girls' "learning" for adulthood and marriage.

Panama

It has an inspection protocol with a specific chapter on "Inspection of the Minor Worker"²³. The Ministry of Labour and Labour Development (MITRADEL) had just over a hundred inspectors in 2018 and reports that they increased at this stage. The Head Department Against Child Labour and Protection of Adolescent Workers (DIRETIPAT) works in coordination with a specialized unit of the Childhood Police of the National Head Department of Labour Inspection (DNIT). It has inspectors trained in child labour. There are coincidences regarding the persistence of child labour and HCL in rural production and in the urban informal sector. Child domestic work - as in the rest of the countries studied - is a problem that poses challenges for its detection and resolution that are still pending.

Peru

A Specialized Group of Labour Inspectors on forced labour and child labour (GEIT-TFI) was set up, made up of 14 officials, which has a specific Action Protocol²⁴. A certain concentration of inspection activity in urban areas and the formal sector and insufficient intervention in other highly informal areas has been reported. The Municipal Model for the Detection and Eradication of Child Labour²⁵ aims to incorporate criteria for the identification of child labour in the regular work of municipal control of establishments, businesses and premises that are within the municipal jurisdiction. The inspectors highlight the difficulties arising from the lack of complaints, a certain social tolerance -which sometimes includes families themselves-, and they highlight the opportunity to strengthen the actions of formal companies through the promotion of compliance with regulations in their supply chain.

Dominican Republic

The responsibility of child labour inspection corresponds to the Inspection Head Department (DI), which depends on the General Labour Head Department (DGT) of the Ministry of Labour (MT) and is advised and guided on the subject by the Child Labour Head Department (DTI), with whom they carry out joint operations. It has approximately 180 inspectors who work in all areas. When a child labour or HCL violation is identified, the warning report is sent to the Justice of the Peace to impose the corresponding sanction and is coordinated with the National Council for Children and Adolescents (CONANI) for the care of children whose rights were violated. Some slowness and ignorance on the part of the inspectors for the enforcement of the HWL has been pointed out, showing a more reactive than proactive attitude towards complaints.

23 General Protocol of Labour Inspection, FUNDAPEM, 2014, available at <http://www.funpadem.org>

24 In the countries considered in the study, the Inspection is a dependency of each Ministry or Secretariat of Labour, with a variant in Peru, where there is a Head Department integrated into the organization chart of the Ministry of Labour and Employment Promotion, and a National Superintendence of Labour Supervision (SUNAFIL), entity attached to it.

25 See: <https://www.iniciativa2025alc.org/sites/default/files/modelo-municipal-de-deteccion-y-erradicacion-de-trabajo-infantil.pdf>

5

Main findings and recommendations

5.1 On the characteristics, possibilities and limits of the Hazardous Work Lists



The testimonies agree that the HWLs, either because of their exhaustiveness or because they are very general, facilitate and/or promote a restrictive interpretation that does not facilitate registered or protected adolescent work. The HWL should not necessarily be the enumeration of all possible dangerous activities and tasks that may exist in a country. They must be adapted to the national context and the socioeconomic reality and be determined from updated information on hazardous work from quantitative and qualitative studies, statistics, expert reports and from the reports themselves and direct consultations with employers' and workers' organizations. An attempt should be made to balance in the update, the activities prohibited by their nature and those prohibited by their conditions.

HWLs are difficult to apply in rural areas and in highly informal sectors, especially in the agricultural sector and in domestic work. Difficulties could be alleviated by developing inspection intelligence capabilities, strengthening the commitment and capacities of local governments and organizations, coordinating actions between the labour inspection and rights protection systems and, simultaneously, developing information and advice campaigns for local governments, employers, adult workers, adolescents and families.

5.2 On the updating and enforcement processes of the Hazardous Work Lists



The countries analyzed recognize the relevance of periodically updating the HWLs but show difficulties associated with procedural, institutional and information availability factors²⁶.

The update must seek a balance between what is prohibited by its nature and those occupations that, due to the conditions, must and can be controlled, regulated, supervised and sanctioned. The product to be achieved is a list of those activities that by their nature affect the health and physical and psychic integrity of adolescents and a list of those that are dangerous due to their conditions. **Updates should be made when reality data demands it.** There has to be an agreement of common criteria of reasonableness and timeliness so that the update is a simple administrative procedure. An inter-agency **shared database** could generate positive synergies.

The participation of employers' and workers' organizations in dialogue and consensus to determine HWLs is highly valued because it provides accurate information on production processes, working conditions, strengthens the value chain approach, among others. Simultaneously, an effective participation and/or consultation with small and medium-sized companies (SMEs) and local unions has not been identified.

There are different emphases and demands regarding HWLs. From workers' organizations it refers to working conditions, to the identification of dangerous jobs by critical sectors, by activity and geographic area, including child domestic work. Employers' organizations point out that in large companies there is no HCL or unregistered adolescents and that the ambiguity and/or detailed prohibitions of the HWL, on many occasions discourage, the hiring of adolescents of legal working age and under protected conditions.

In this sense, exploring, defining and agreeing on the interests that motivate the participation of the parties, as a task prior to addressing the lists, seems a convenient task that would result in the improvement of the enforcement of the adopted HWLs.

²⁶ Convention No. 182 Art. 4.3 points out that the HWL should be examined periodically. The countries present different situations with regard to the timeframes for updates: Argentina, Chile and Honduras establish timeframes with different durations (2, 3 and 4 years respectively); Guatemala, Panama, Peru and the Dominican Republic indicate that they will do it periodically when the competent authority deems it timely.



It is pertinent to **plan the instances of consultation and the profiles of tripartite participation**. For what and whom to summon both at the governmental and sectoral levels? What areas of national and local government should be consulted? What sectorial and social referents should be heard in addition to the current tripartite representations? What kind of information is needed and who can provide it?

HWLs are difficult to enforce for local governments (regions, municipalities or communes) due to a combination of: i) social tolerance to child labour and HCL; ii) poor knowledge of HCLs; iii) limited labour inspection resources; iv) weaknesses in the system for the protection of the rights of children and adolescents; and v) high rates of informal economy. Their enforcement is often hampered by the use of technicalities, the lack of consensus, inaccuracies and the limited dissemination of HWLs by responsible authorities among a wide range of stakeholders such as companies, local unions, farming families, adolescent workers, among others.



The **dissemination, knowledge and understanding** of HWL contributes to reducing the levels of social tolerance to child and adolescent labour and empowers a multiple universe of actors that interact in social life, particularly in local and rural settings. In countries where there are significant percentages of indigenous population, it is important to implement consultation mechanisms with an intercultural approach. In rural areas and in populations with their own linguistic and cultural characteristics, action in native languages should be considered for the consultation and dissemination processes.

It is necessary to **develop more research and quantitative studies**, as well as updated statistical data that include analyzes disaggregated by age, sex, sector, activity, region, occupational health and safety, among others. The information, quantitative and qualitative - when it exists and is available - in many cases is discontinuous and is fragmented in various government agencies and, in federal countries, in each subnational jurisdiction. There are coincidences in the need to generate and update a computerized database that collects statistical data, regular surveys, and expert research, among others, that can be consulted during the HWL update process. The approach to activities and conditions from a gender perspective is especially important.

Coordination difficulties are identified between inspection systems and rights protection systems. It is necessary to strengthen the inspection systems and protection of rights in rural areas and critical sectors through training, mobility, access and use of adequate technology and definition of priorities for action in the territory.



COVID-19 has created new challenges for all actions that must be taken on the ground, and it is appropriate to pay particular attention to the possibilities that **new technologies** can offer. The reality posed by the pandemic affects statistical institutions, the registration and information collection processes, the periodicity of these processes, the assigned budget execution, the modalities and the information generated by the inspection system.

The inspections could have in situ information online that is already found in other areas of the Ministries of Labour or other government areas, and that should be made accessible for these purposes. This implies, on the one hand, the intelligent use of technology to maximize results through an in-depth review of the way in which tasks are traditionally defined and executed; on the other, to have access and capacity to use the necessary technology. Regarding the latter, it is verified that some governments have made notable advances in the field of electronic government. There is technology that is already incorporated in government areas. It needs to be adapted and shared, which would maximize the responsiveness of inspection and rights protection systems.



Promote the **allocation of a regular budget** to provide adequate professional, technological and financial resources, which should be guaranteed in accordance with the priority of the issue on the public agenda. "Without a budget there are no rights."

Suggest to the countries that have included illicit forms of child labour in the HWL the relevance of specifically complying with point d) of Art. 3 of Convention No. 182. When the update excludes the illicit forms of child labour, one should include a clarification or reference note where the excluded modalities are explained and the reasons for the exclusion in virtue of that indicated in Art. 4.1 of the ILO Convention No. 182²⁷.

27 ILO Convention No. 182, Art. 4, numeral 1. The types of work referred to in Art. 3 d) must be determined by national legislation or by the competent authority, after consultation with the employers' and workers' organizations concerned and taking into account international standards on the matter, in particular paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.



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