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Combating Trafficking in Children for Labour Exploitation in the Pacific

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Overview

- International regulatory framework
- Risk factors in the Pacific for child trafficking
- ILO / IPEC responses to eliminate child trafficking



UN Convention on the Rights of the Child 1989



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- Child = all persons under 18 years of age (Art 1)
- Rights apply without discrimination to child or parent's race, sex, religion, political opinion, disability etc. (Art 2)
- Best interests of child are primary consideration (Art 3)
- States must protect child's right to life, survival and development to maximum possible extent (Art 6)
- Right of child to express views and participate in decisions affecting them (Art 12)



Child's rights re trafficking under CRC

- Protection from abduction, sale or trafficking (Art 35)
- Protection from economic exploitation, hazardous work, work that interferes with education or is harmful (Art 32)
- Protection from all forms of exploitation prejudicial to welfare (Art 36)
- Protection from all sexual abuse and exploitation including prostitution and pornography (Art 34)



Child's rights re trafficking under CRC

- Protection from arbitrary or unlawful interference with family or home (Art 16)
- Protection from illicit transfer and non-return from abroad (Art 11)
- Right to Education (Arts 28 & 29)

> Trafficking is a violation of children's rights





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UN Palermo Protocol – defines trafficking

Protocol to prevent, suppress and punish trafficking in persons, especially women and children > supplements UN Convention Against Transnational Organized Crime

3 components:

A) The *recruitment, transportation, transfer, harbouring or receipt of persons*;

Implies some
movement/
transaction

B) By means of threat or use of force or other forms of coercion, of abduction, of fraud, deception, of the *abuse of power or of a position of vulnerability* or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person;

'Means' or
'methods'

C) for the purpose of *exploitation* - shall include, at a minimum the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour, or services, slavery or practices similar to slavery, servitude or the removal of organs.

End result is
exploitation





ILO Mandate re child trafficking

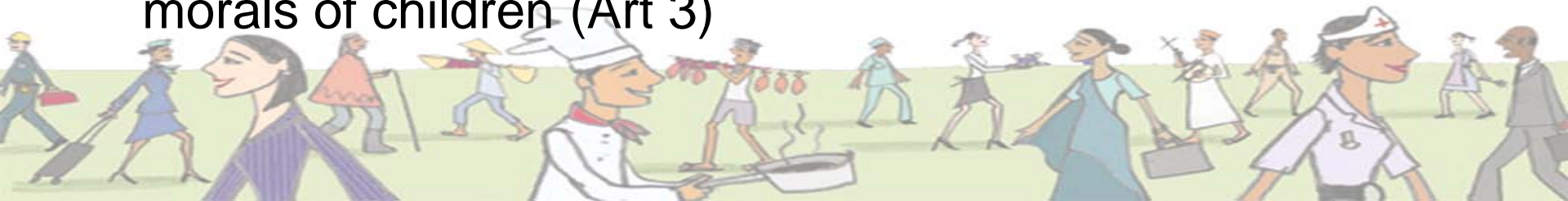
- Preamble to ILO Constitution (1919):
Protection of the interests of workers
- ILO Declaration on the Fundamental Principles and Rights at Work (1998):
'All member States respect, promote & realize the principles concerning fundamental rights at work'
- *Fundamental rights include to be free of :*
 - *Child labour (C 138)*
 - *WFCL, including trafficking (C 182)*





ILO C.182 Worst Forms of Child Labour

- Applies to all children under 18 (Art 2)
- Declares child trafficking to be a 'Worst Form of Child Labour' (Art 3)
- Other WFCL often result from trafficking: slavery, forced labour, debt bondage, serfdom, prostitution, pornography, other illicit activities i.e. drug production / trafficking, forced recruitment for armed conflict and all forms of work that are likely to harm the safety, health or morals of children (Art 3)



ILO C.182 Worst Forms of Child Labour

- Requires ratifying states to:
 - take *immediate* and *effective* measures to secure prohibition and elimination of WFCL including trafficking, as a matter of *urgency* (Art 1);
 - Prevent engagement of children in WFCL; provide direct assistance to remove children from WFCL and rehabilitate them; ensure access to free basic education and vocational training to children removed from WFCL; identify and reach out to children at special risk of WFCL and take special situation of girls into account (Art 7)
 - assist other states in implementing C.182 including assistance for social and economic development, poverty eradication and universal education programmes (Art 8)





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ILO Recommendation 190 on WFCL

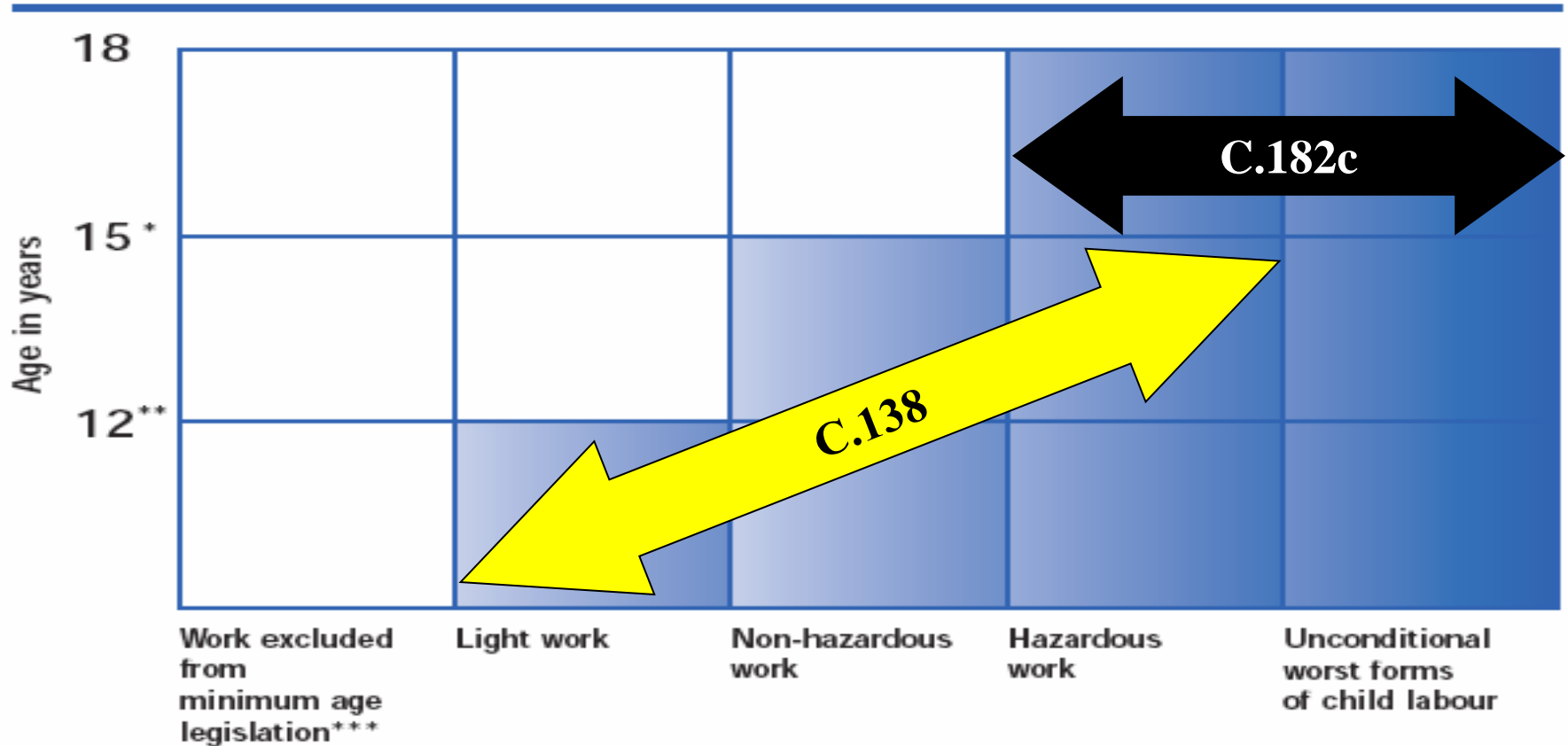
Provides guidance on effective implementation of C.182 including:

- collecting detailed information and statistical data on child trafficking;
- mobilizing public opinion and the support of workers and employers organizations and civil society to eliminate child trafficking; and
- creating jobs and providing skills training for parents and adult family members of children at risk of child trafficking.



Child labour = end result of trafficking

Figure 1.1: Basic distinctions in ILO child labour standards



Shaded area = child labour for abolition

- * The minimum age for admission to employment or work is determined by national legislation and can be set at 14, 15 or 16 years.
- ** The minimum age at which light work is permissible can be set at 12 or 13 years.
- *** For example, household chores, work in family undertakings and work undertaken as part of education.



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ILO C.182 Worst Forms of Child Labour

- Global Action Plan (GAP) against WFCL (endorsed 2006)
- GAP commits all 181 member States to:
 - Time bound measures against WFCL by end 2008;
 - Elimination of WFCL by 2016;





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Support for C.182 in the Pacific

- Australia, Fiji, Kiribati, New Zealand, Papua New Guinea, Samoa and Vanuatu > ratified C.182
- Obligated to report regularly to CEARC on implementation > observations & direct requests
- Solomon Islands, Republic of Marshall Islands and Tuvalu > yet to ratify C.182
- Obligated to report annually on domestic status of rights under C.182
- Significant progress re WFCL & 10th anniversary C.182





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Further ILO Conventions to eliminate child trafficking

- C.29 ILO Forced Labour Convention;
- C.105 ILO Abolition of Forced Labour Convention 1957;
- C.97 ILO Migration for Employment Convention (Revised) 1947;
- C.143 ILO Migrant Workers (Supplementary Provisions) Convention 1975; and
- C.181 ILO Private Employment Agencies Convention 1997.



Smuggling versus Trafficking

Smuggling of a migrant:

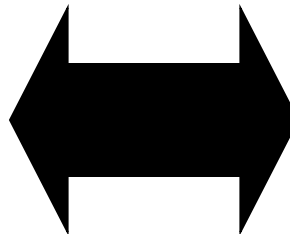
- Provide assistance to migrant to cross a national border illegally;
- Consent to movement;
- Intention of smuggler is to assist in illegal border crossing in return for reward;
- Always involves crossing international border;
- Is crime against immigration law;

See Art. 3(a) of Smuggling Protocol to Transnational Crime Convention

Trafficking of person:

- Deception (at a minimum) for the purpose of exploitation;
- No agreement/consent (or irrelevant due to force or age);
- Intention of trafficker is to exploit;
- Not necessarily crossing international border;
- Is crime against person;

See Art. 3 of Trafficking Protocol to Transnational Crime Convention



Child Trafficking – Components summarized

1. **Act** - some **movement/transaction** to unfamiliar territory

Movement/transaction **within** (often rural to urban) or **across** national borders

Traded as commodity & intent of the trader is material (e.g. labour) or immaterial (e.g. sex) benefit

(2.) **Means** or **abuse** at any **stage** of movement
(Irrelevant 4 children)

E.g. Deception; Use of violence & threats; Physical captivity & isolation; Withholding of travel documents; Debt bondage; abuse of position of vulnerability by recruiter, intermediary, transporter, employer

3. **End result:** A form of '**exploitation**'

Sexual exploitation

Forced labour (i.e. bondage, slave-like, servitude)

(Removal of organs)

For ILO also:

Unconditional Worst Form of Child Labour <18(C182)

Hazardous child labour <18 (C182)

Regular work below legal working age (14-15) (C138)

Light work of children below 12-13 (C138)

Child trafficking - a global labour issue



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- Between 300,000 and 400,000 children are trafficked across borders each year > but doesn't include children trafficked within countries (US State Dept, 2004)
- Between 980,000 and 1,250,000 children currently in forced labour as a result of trafficking = ~ 15% of children engaged in WFCL (ILO Global Report, 2005)
- Globally 8.1 million victims of forced labour are denied \$20 billion in wages > \$8.9 billion of this incurred in Asia/ Pacific – wages denied are not remitted to workers' home countries > impediment to economic development (ILO, 2009)





Child trafficking risk factors for labour exploitation in the Pacific



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- **Individual & Family Risk Factors**
 - large patriarchal family in poverty
 - age & sex (i.e. young girls)
 - traditional attitudes and practices
 - experience of domestic violence & sexual abuse
 - naivety & lack of awareness
 - lack of education & skills
 - boredom with village life & city attraction
 - travelling without money





Child trafficking risk factors for labour exploitation in the Pacific



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- **Institutional & Community Risk Factors:**
 - large youth population with low labour market absorption capacity > high youth unemployment
 - absence of cheap, fast & transparent migration/job placement services for youth > youth go illegally
 - weak legal framework, enforcement & corruption
 - weak education system not relevant to labour market
 - distance to schools & training
 - gender discrimination in education & labour market
 - lack of community entertainment
 - history of migration



Child trafficking risk factors for labour exploitation in the Pacific



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- **Workplace Risk Factors:**

- poor labour law protection, inspection & enforcement
- unregulated informal economy & 3D jobs (Dangerous, Dirty, Demanding) with poor working conditions
- inability to change employer
- male demand for sex with girls / sex tourism
- lack of organisation and representation of workers

➤ ***To stop child trafficking need to recognise which risk factors are present & find ways to minimise them***



ILO / IPEC response to child trafficking



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- IPEC established in 1992 and now world's largest technical cooperation programme to end child labour, with a focus on eliminating WFCL, including child trafficking
- IPEC acts on a global level to: raise awareness about labour exploitation component of child trafficking; build the knowledge base; mobilize and capacity build partners; and promote participation of children
- IPEC acts on a country level to: monitor child trafficking; take direct action at various points in trafficking process; advise on law reform, enforcement and employment related responses to child trafficking





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ILO / IPEC responses in the Pacific

- IPEC - TACKLE programme in Fiji and PNG > aims to eliminate all forms of child labour including trafficking
- Operates in 11 countries in Africa, Caribbean and Pacific
- TACKLE's key objectives:
 - Reduce poverty by providing access to basic education and skills training to disadvantaged children and youth; &
 - Strengthen capacity of authorities in the formulation, implementation and enforcement of policies to tackle child labour in coordination with employer organisations, unions and civil society





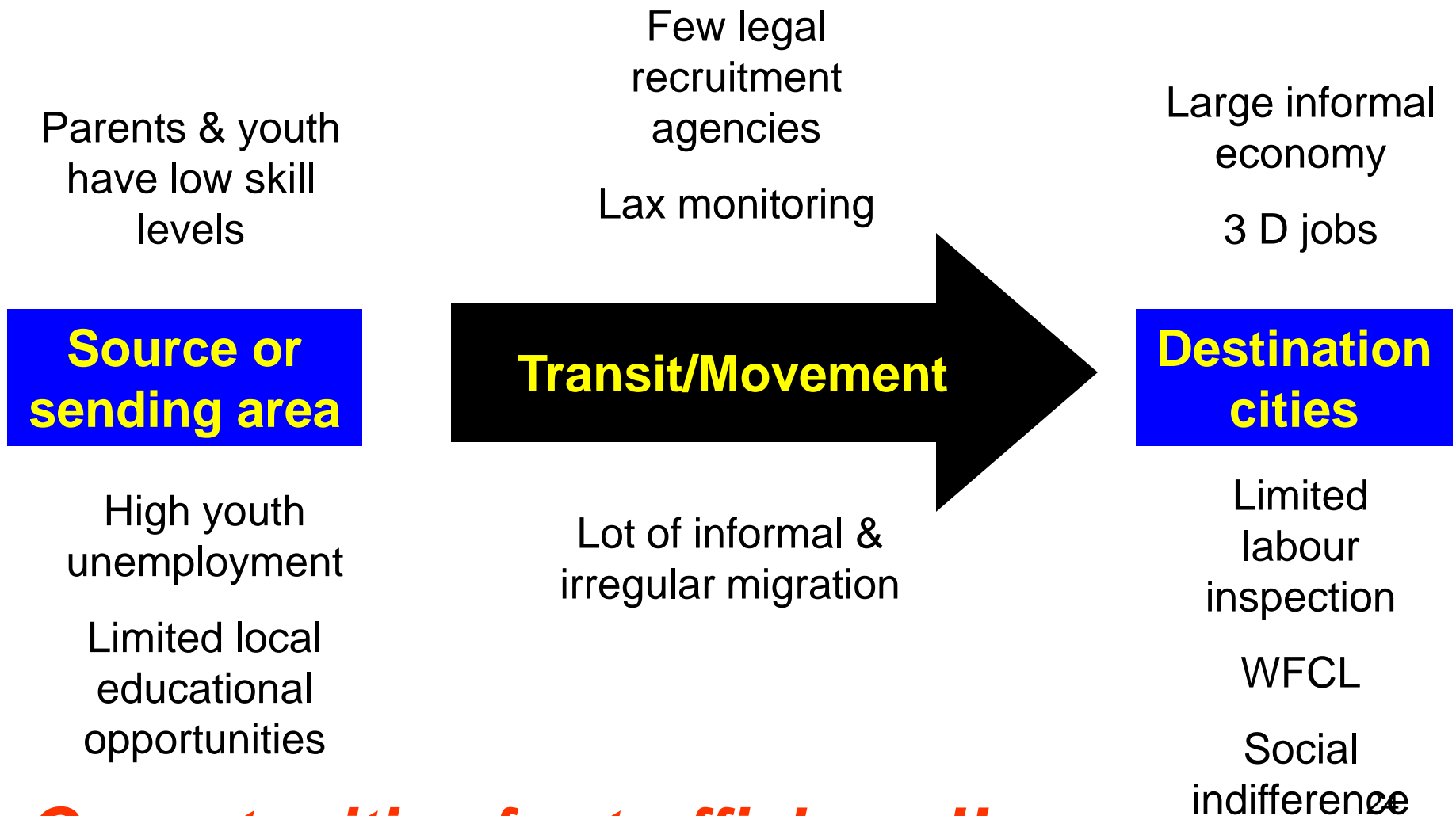
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ILO / IPEC responses in the Pacific

- TACKLE operates through 3 key project strategies:
 - Strengthen legal frameworks on child labour and education
 - Strengthen institutional capacity to formulate and implement child labour strategies (research)
 - Targeted actions to combat child labour (database)



Child trafficking labour dimension > the problem



Opportunities for traffickers !!

Child trafficking labour dimension > ILO's aim

Parents & youth
of working age
have decent
jobs

**Source or
sending area**

Children go to
school/training and
acquire skills

Active
licensing and
monitoring of
recruitment
agencies

Transit/Movement

Fast, cheap &
transparent services
by registered
recruitment agencies

Law enforcement &
prosecution against
traffickers

Migrants join
trade unions

Employers
have CSR
policy

**Destination
cities**

Working
conditions
monitored

Public wants
'clean'
products

No underage
labour

Traffickers have no business