Child labour remains a widespread problem around the world. Over 200 million children can be regarded as child labourers, and about 10 million children are involved in producing either agricultural or manufactured products for export.

Franziska Humbert explores the status of child labour in international law. Offering a wide-ranging analysis of the problem, she examines the various UN and ILO instruments and reveals the weaknesses of the current frameworks installed by these bodies to protect children from economic exploitation. After assessing to what extent trade measures such as conditionalities, labelling and trade restrictions, and promotional activities can reduce child labour, she suggests an alternative legal framework which takes into account the needs of children.

Franziska Humbert is a policy adviser on labour standards with Oxfam Germany and a research fellow in the Swiss academic research NCCR project on trade regulation in the field of trade and human rights at the University of Zurich.
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The Challenge of Child Labour in International Law

Franziska Humbert
Contents

List of abbreviations page xii
Foreword xv
Acknowledgements xvii

Introduction 1
A. Trade measures on child labour 1
   I. The problem of child labour and the international community 1
   II. The trade and labour linkage 2
B. Contents 11
C. Some definitions 12
   I. Trade sanctions and trade measures 12
   II. Effectiveness 13

1. The problem of child labour 14
A. Introduction 14
B. Defining child labour 14
   I. Introduction 14
   II. Historical and cultural perspectives of childhood 15
   III. The concept of child labour 17
C. Forms of child labour 19
   I. Hazardous working conditions 19
   II. Domestic service 20
   III. Street children 21
   IV. The informal economy 21
   V. The unconditional worst forms of child labour 21
D. Statistics: Distribution of child labour 22
E. Causes of child labour 25
   I. Supply-side factors 25
   II. Demand-side factors 29
F. Economic consequences of child labour 31
G. Strategies for combating child labour 31
   I. Introduction 31
   II. Action against child labour 31
H. Conclusion of Chapter 1 33

2. The prohibition of child labour in international law 35
   A. Introduction 35
   B. UN conventions and protocols and the Universal Declaration of Human Rights 35
      I. The Slavery Convention 35
      II. The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 38
      III. The Universal Declaration of Human Rights – Art. 4 45
      IV. The International Covenant on Civil and Political Rights – Art. 8 53
      V. The International Covenant on Civil and Political Rights – Art. 24 (1) 61
      VI. The International Covenant on Economic, Social and Cultural Rights – Art. 10 (3) 62
      VII. The Convention on the Rights of the Child – Art. 32 67
      VIII. The Convention on the Rights of the Child – Art. 34 75
      IX. The Convention on the Rights of the Child – Art. 35 77
      XI. The Convention on the Rights of the Child – Art. 38 78
      XII. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts 79
      XIII. The scope of the prohibition of exploitative child labour under UN conventions, protocols and the UDHR 80
   C. ILO conventions and the ILO Declaration on Fundamental Principles and Rights at Work 82
# CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Convention concerning Forced or Compulsory Labour No. 29</td>
<td>82</td>
</tr>
<tr>
<td>II. Convention concerning the Abolition of Forced Labour No. 105</td>
<td>86</td>
</tr>
<tr>
<td>III. Conventions concerning conditions of work and employment</td>
<td>87</td>
</tr>
<tr>
<td>IV. Minimum Age Convention No. 138 and Recommendation No. 146</td>
<td>88</td>
</tr>
<tr>
<td>V. Convention on the Worst Forms of Child Labour No. 182</td>
<td>95</td>
</tr>
<tr>
<td>VI. The ILO Declaration on Fundamental Principles and Rights at Work</td>
<td>103</td>
</tr>
<tr>
<td>VII. The scope of the prohibition of child labour under ILO conventions, recommendations and the ILO Declaration on Fundamental Principles and Rights at Work</td>
<td>107</td>
</tr>
<tr>
<td>D. The protection from exploitative child labour as customary law</td>
<td>110</td>
</tr>
<tr>
<td>E. The protection from exploitative child labour as a general principle of law</td>
<td>110</td>
</tr>
<tr>
<td>F. The protection from exploitative child labour as ius cogens</td>
<td>114</td>
</tr>
<tr>
<td>G. Conclusion of Chapter 2</td>
<td>119</td>
</tr>
</tbody>
</table>

3. UN and ILO implementation mechanisms for the prohibition of child labour  
   A. Introduction  
   B. The UN human rights implementation mechanism  
      I. Introduction  
      II. The treaty-based system  
      III. Extra-conventional UN procedures  
      IV. Conclusion  
   C. The ILO Implementation System  
      I. Introduction  
      II. The supervisory bodies  
      III. The regular supervisory system  
      IV. The Follow-up under the ILO Declaration on Fundamental Principles and Rights at Work  
      V. The special procedures  
      VI. Promotional activities
CONTENTS

VII. Case study – Myanmar 183
VIII. Evaluation of the ILO implementation system 192
D. Conclusion of Chapter 3 194

4. Trade measures on child labour 195
A. Introduction 195
B. Social clauses in regional and bilateral trade agreements 195
   I. Introduction 195
   II. US Free Trade Agreements 197
   III. EU Economic Agreements 253
   IV. Conclusion 279
C. Social clauses in Generalized Systems of Preferences 284
   I. Introduction 284
   II. The US GSP 285
   III. The EU GSP 300
   IV. Conclusion 315
D. Unilateral and other national trade measures on child labour 318
   I. Introduction 318
   II. Section 307 of the US Tariff Act of 1930 318
   III. The Massachusetts Act on Burma (Myanmar) 322
   IV. The Belgian Social Label Law 323
   V. The Kimberley Process Certification Scheme 329
   VI. Conclusion 331
E. Corporate social responsibility 332
   I. Introduction 332
   II. Codes of conduct 336
   III. Social labelling 360
   IV. Socially responsible investment 366
   V. Global reporting 367
   VI. Other employer/TNC initiatives 368
   VII. Evaluation 371
F. Conclusion of Chapter 4 373

5. Recommendations for an ILO–WTO enforcement regime 376
A. Introduction 376
B. Addressing the fear of protectionism 377
## C. Basic principles 379

- I. **Trade-related or country-related standards?** 379
- II. **Institutional structure** 380
- III. **Cooperative activities** 381
- IV. **Public communications** 382
- V. **Consultations** 383
- VI. **Dispute settlement** 383

## Concluding summary 386

- A. **Summary of results** 386
- B. **Epilogue** 388

**Bibliography** 390

**Index** 418
Abbreviations

ACP  African Caribbean Pacific
ACTA  Alien Tort Claims Act
AFL–CIO  The American Federation of Labour–Congress of Industrial Organizations
AGOA  African Growth and Opportunity Act
ASEAN  Association of South East Asian Nations
BGMEA  Bangladeshi Garment Manufacturers and Exporters Association
BSCI  Business Social Compliance Initiative
CAFTA  Central American Free Trade Agreement
CARIFORUM  Caribbean Forum of African, Caribbean and Pacific States
CCC  Clean Clothes Campaign
CIR  Christliche Initiative Romero
CRC  Convention on the Rights of the Child
DSU  Dispute Settlement Understanding
EBA  Everything but Arms
EC  European Community
ECE  Evaluation Committee of Experts
ECHR  European Commission of Human Rights
ECJ  European Court of Justice
ECOSOC  Economic and Social Council
EPA  Economic Partnership Agreement
EPZ  Export Processing Zone
ETI  Ethical Trading Initiative
ETUC  European Trade Union Confederation
EU  European Union
FIFA  Fédération Internationale de Football Association
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>FLA</td>
<td>Fair Labour Association</td>
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<td>FLSA</td>
<td>Fair Labor Standards Act</td>
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<tr>
<td>FTA</td>
<td>Free Trade Agreement</td>
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<tr>
<td>FTAA</td>
<td>Free Trade Area of the Americas</td>
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<td>GAO</td>
<td>General Accounting Office</td>
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<td>GATT</td>
<td>General Agreement on Tariffs and Trade</td>
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<td>GB</td>
<td>Governing Body</td>
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<td>GRI</td>
<td>Global Reporting Initiative</td>
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<td>GSP</td>
<td>Generalised System of Preferences</td>
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<td>HRC</td>
<td>Human Rights Committee</td>
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<td>ICC</td>
<td>International Criminal Court</td>
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<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<tr>
<td>ICFTU</td>
<td>International Confederation of International Trade Unions</td>
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<td>ICJ</td>
<td>International Court of Justice</td>
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<td>IFWEA</td>
<td>International Federation of Workers’ Educations Associations</td>
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<td>ILC</td>
<td>International Law Commission</td>
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<td>ILRF</td>
<td>International Labour Rights Fund</td>
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<td>ILO</td>
<td>International Labour Organization</td>
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<td>IOE</td>
<td>International Organization of Employers</td>
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<tr>
<td>IPEC</td>
<td>International Programme on the Elimination of Child Labour</td>
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<tr>
<td>IRRC</td>
<td>Investor Responsibility Research Centre</td>
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<tr>
<td>ISO</td>
<td>International Organization for Standardization</td>
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<tr>
<td>ITUC</td>
<td>International Trade Union Confederation</td>
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<tr>
<td>IUF</td>
<td>International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations</td>
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<tr>
<td>LAC</td>
<td>Labour Advisory Committee</td>
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<td>LDC</td>
<td>Least Developed Country</td>
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<td>MERCOSUR</td>
<td>Mercado Commun del Sur</td>
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<tr>
<td>MFA</td>
<td>Multifibre Agreement</td>
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<tr>
<td>NAALC</td>
<td>North American Agreement on Labor Cooperation</td>
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<td>NAFTA</td>
<td>North American Free Trade Agreement</td>
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<td>NGO</td>
<td>Non-governmental Organisation</td>
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<tr>
<td>Abbreviation</td>
<td>Description</td>
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<tr>
<td>OECD</td>
<td>Organisation for Economic Cooperation and Development</td>
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<td>OHCHR</td>
<td>Office of the High Commissioner for Human Rights</td>
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<tr>
<td>OJ</td>
<td>Official Journal of the European Union</td>
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<tr>
<td>ORSE</td>
<td>Observatoire sur la Responsabilité Sociétale des Entreprises</td>
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<tr>
<td>Oxfam</td>
<td>Oxford Committee for Famine Relief</td>
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<tr>
<td>ppm</td>
<td>process and production method</td>
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<td>SACCS</td>
<td>South Asian Coalition on Child Servitude</td>
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<td>SAI</td>
<td>Social Accountability International</td>
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<td>SIMPOC</td>
<td>Statistical Information and Monitoring Programme on Child Labour</td>
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<td>SRI</td>
<td>Socially Responsible Investment</td>
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<tr>
<td>TBP</td>
<td>time-bound programme</td>
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<td>TNC</td>
<td>Transnational Corporation</td>
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<td>TPSC</td>
<td>Trade Policy Staff Committee</td>
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<td>Tralac</td>
<td>Trade Law Centre for Southern Africa</td>
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<td>UDHR</td>
<td>Universal Declaration of Human Rights</td>
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<td>UN</td>
<td>United Nations</td>
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<td>UNAIDS</td>
<td>United Nations Joint Programme on HIV/AIDS</td>
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<td>UNCTAD</td>
<td>United Nations Conference for Trade and Development</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
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<tr>
<td>UNESCO</td>
<td>United Nations Educational, Scientific and Cultural Organization</td>
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<tr>
<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
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<tr>
<td>USAID</td>
<td>United States Agency for International Development</td>
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<tr>
<td>USTR</td>
<td>Office of the United States Trade Representative</td>
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<tr>
<td>VCLT</td>
<td>Vienna Convention on the Law of Treaties</td>
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<tr>
<td>WFSGI</td>
<td>World Federation of the Sporting Goods Industry</td>
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<tr>
<td>WRAP</td>
<td>Worldwide Responsible Apparel Production Principles</td>
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<td>WTO</td>
<td>World Trade Organization</td>
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Foreword

Around the world, millions of children under the age of fifteen are engaged in the work force, often lacking proper education and schooling. Child labour has remained one of the great dilemmas of our time in particular, but not exclusively, in developing countries. Families still depend upon income generated by children who in turn miss out on education, and fail to make progress and build prosperity for coming generations in a world that is increasingly shaped by knowledge and information. Child labour causes social, educational and economic problems, primarily in the domestic realm of each country and society. It is a core issue of domestic educational and economic policies. It cannot be ignored in development cooperation. As a problem of human rights protection with implications for the conditions of competition in international trade, it also features prominently in public international law. This is the topic of the present book. Franziska Humbert offers a rich and detailed account of the causes, instruments and problems relating to the monitoring and implementation of what essentially amounts to a ban of child labour in international law.

The book expounds the distressing facts and context of exploiting child labour and its various forms at different levels of social and economic development in great detail. The exploration of the legal framework amounts to a careful analysis of the various instruments. The author starts with the impact of the human rights instruments of the United Nations and the numerous instruments of the International Labour Organization. She focuses on implementation and enforcement and the different avenues available, ranging from moral suasion (name and shame) to support measures in terms of development aid. The work then turns to focus on trade-related measures and inquires to what extent trade measures, ranging from conditionalities, labelling and
trade restrictions, and promotional activities can be lawfully employed to the benefit of reducing child labour around the world. She extensively deals with options for unilateral measures in the field. The book concludes by proposing a multilateral enforcement mechanism by the World Trade Organization and International Labour Organization.

The timely book offers an important source of information and argument in the field. Child labour still ranges among the many unsettled issues of trade and human rights, and the book offers insights and foundations as to how a better equilibrium could be found to balance the two fields within an agenda of sustainable development. The proper shaping of core labour standards and social clauses under WTO law is impending and awaits solutions. While international law offers ample foundations for action, the tools to do so are far from satisfactory at this point in time.

Franziska Humbert makes a remarkable contribution to this effect. She undertook her research at the World Trade Institute with enthusiasm and perseverance, working within a research group in trade and human rights within the Swiss National Centre of Competence on Research (NCCR) Trade Regulation, hosted at the World Trade Institute. The book is based upon her PhD admitted by the Faculty of Law, University of Bern, in 2007. She was able to combine her work with practical experience working with Oxfam. It was truly enriching to work with her.

Thomas Cottier
Bern, February 2009
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The Faculty has approved this thesis as a dissertation on basis of the application of the two examiners Prof. Thomas Cottier and Prof. Christine Kaufmann without giving a judgement on the opinion expressed in the thesis.

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