The Challenge of Child Labour in International Law

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
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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>
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<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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<td>FTA</td>
<td>Free Trade Agreement</td>
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<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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<tr>
<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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<td>IPEC</td>
<td>International Programme on the Elimination of Child Labour</td>
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<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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<td>ITUC</td>
<td>International Trade Union Confederation</td>
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<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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<td>MFA</td>
<td>Multifibre Agreement</td>
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<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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<tr>
<td>NGO</td>
<td>Non-governmental Organisation</td>
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LIST OF ABBREVIATIONS

OECD Organisation for Economic Cooperation and Development
OHCHR Office of the High Commissioner for Human Rights
OJ Official Journal of the European Union
ORSE Observatoire sur la Responsabilité Sociétale des Entreprises
Oxfam Oxford Committee for Famine Relief
ppm process and production method
SACCS South Asian Coalition on Child Servitude
SAI Social Accountability International
SIMPOC Statistical Information and Monitoring Programme on Child Labour
SRI Socially Responsible Investment
TBP time-bound programme
TNC Transnational Corporation
TPSC Trade Policy Staff Committee
Tralac Trade Law Centre for Southern Africa
UDHR Universal Declaration of Human Rights
UN United Nations
UNAIDS United Nations Joint Programme on HIV/AIDS
UNCTAD United Nations Conference for Trade and Development
UNDP United Nations Development Programme
UNESCO United Nations Educational, Scientific and Cultural Organization
UNICEF United Nations Children’s Fund
USAID United States Agency for International Development
USTR Office of the United States Trade Representative
VCLT Vienna Convention on the Law of Treaties
WFSGI World Federation of the Sporting Goods Industry
WRAP Worldwide Responsible Apparel Production Principles
WTO World Trade Organization
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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