

***Thesis for the Advanced Master on International Children's Rights***

***2017 – 2019***



**The End of Child Labour in 2025:  
A Path to Victory**

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A large audience of people in a conference hall, many with their hands raised in approval. The room has a modern design with wooden desks and a high ceiling with recessed lights. A speaker is visible at a podium on the right side of the frame.

# The End of Child Labour in 2025: A Path to Victory

*by Roelof van Laar*

**Declaration statement**

Date: 12-07-2019

Location: Hoofddorp

**Declaration Statement**

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## **Executive summary**

To eliminate child labour in 2025, governments need to step up their game, fast. The total investment required was estimated by the ILO in 2003 to be \$760 billion. Since the number of children in child labour has gone down and the number of children in education has gone up significantly (although not enough), the total cost at present would be lower. However, there are only 5.5 years remaining until the SDG target deadline, so significant investments need to be made fast. The good news is that the (long term) benefits of this investment will outweigh the costs significantly.

### *Legal standards and regulation*

A successful approach against child labour cannot be successful without decent legal standards and regulation. This thesis submits that countries should review their legislation and if possible increase the minimum age for admission to work, close gaps and reduce exceptions in the legal definition of child labour, expand the list of worst forms and hazardous child labour and effectively enforce these laws through, among other measures, increased inspections. Government should, if needed, also invest in supporting measures, such as reliable age verification, to reduce child labour.

### *Compulsory education*

Protecting children from exploitation is a start, but it is not enough. This thesis submits that significant investments in inclusive and quality education are necessary to provide children who are now out of school with a better future. Government should raise the age for compulsory education age to 16 and lower the direct and indirect costs of education to minimal levels. Compulsory education can only be successful if parents are convinced of the value of education and if compulsory education is enforced, for example through inspections.

### *Income transfer programs*

To guarantee an adequate standard of living for children, governments need to introduce or increase income transfer programs. This thesis submits that unconditional cash transfer programs are the most efficient way to do this, but other programs can meet the same goal.

### *International cooperation*

To eliminate child labour in 2025, countries need to increase international cooperation and more generously support governments, international organizations and NGOs to eliminate child labour. An extra 30 billion dollars a year for education could be enough to make all children go to school. Additional funding for targeted programs by governments and NGOs would be necessary, but much cheaper.

Dutch support for NGOs (€5m) and multi stakeholder initiatives (€7m) against child labour are considered high. This thesis submits that all countries that give Official Development Assistance (ODA) should follow the Dutch example and spend 0.3% of their ODA budget in support of NGO and multi-stakeholder initiatives to eliminate child labour.

### *Child labour due diligence*

If an enterprise wants to make an impact on child labour, it has to know if it is causing, contributing to or directly linked to child labour in its supply chain. To find out, an enterprise has to do its due diligence in accordance with the Guidelines and follow the six steps of proper due diligence. Child labour is often hidden. Zero tolerance towards child labour encourages this. A continuous improvement approach,

based on meaningful dialogues with all stakeholders involved yields stronger results. When child labour is found, enterprises and families should not be punished with a direct negative economic impact. Rather, a proper analysis of causes of the child labour and effects of possible measures should be made before taking action. Ideally, enterprises contribute to system solutions for child labour and work in co-operation with other stakeholders.

Co-operating can lower cost and increase impact. Multi-stakeholder initiatives can maximize leverage and insulate enterprises from harsh criticism on their business conduct, especially if the membership of the initiative is broad and there is consensus among the members of what can be expected of enterprises.

Governments can do much more than they are doing now. Probably also more than they currently envision they can do. If they would make full use of their options to exemplify, regulate, co-operate, facilitate and collaborate child labour due diligence, governments would have huge impact in how much is invested in child labour due diligence.

This thesis submits that to maximize their impact on child labour due diligence, governments ought to:

1. Draft a National Action Plan on Business and Human Rights.
2. Use an effective mix of voluntary and involuntary approaches to stimulate enterprises to do their due diligence.
3. Codify the minimum requirements for child labour due diligence in a strong law.
4. Help enterprises to comply with the law.
5. Support enterprises which want to go above and beyond the minimum requirements.
6. Enable civil society organizations to play their roles in due diligence processes.

An impactful, strong, child labour due diligence law can be made. The Dutch law can be an example, but it is not a perfect one. This thesis submits that governments should make a law that is strong in all 10 criteria: scope, reporting, content, frequency, monitoring, penalties, accessibility, applicability, extra-territoriality and measures. A globally, or at least regionally, unified approach can also significantly increase the impact of laws and reduce the administrative costs for enterprises to comply with the law. Since several EU-countries already have or are making a due diligence law, this thesis submits that a strong EU directive on (child labour) due diligence would be a logical step.

### *Path to victory*

This thesis contains all the building blocks for a path to victory for the elimination of child labour. Countless countries have proven that it is possible. Research shows that it is affordable and that the long term benefits far outweigh the costs. So all that is sustaining child labour in the world is a lack of resolve by governments. Ministers, Members of Parliament, Civil Servants, NGO's, enterprises, international organizations and all others involved need to prioritize the elimination of child labour in the next five years, and then child labour can be eliminated. Let's get to (decent) work!

## **Overview of Main Findings**

To eliminate child labour in 2025, governments need to step up their game, fast. There are only 5.5 years remaining until the SDG target deadline. The good news is that the (long term) benefits of this investment will outweigh the costs significantly.

### *Legal standards and regulation*

This thesis submits that countries should review their legislation and if possible increase the minimum age for admission to work, close gaps and reduce exceptions in the legal definition of child labour, expand the list of worst forms and hazardous child labour and effectively enforce these laws through, among other measures, increased inspections. Government should, if needed, also invest in supporting measures, such as reliable age verification, to reduce child labour.

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This thesis submits that unconditional cash transfer programs are the most efficient way to guarantee an adequate standard of living for all children, but other programs can meet the same goal.

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### *Path to victory*

This thesis contains all the building blocks for a path to victory for the elimination of child labour. All that is sustaining child labour in the world is a lack of resolve by governments. If the elimination of child labour is prioritized by all involved in the next five years, then child labour can be eliminated. Let's get to (decent) work!

## List of Abbreviations

ACRWC	African Charter on the Rights and Welfare of the Child
AU	Australia
CLDDL	Child Labour Due Diligence Law
CRC	Convention on the Rights of the Child
CSO	Civil Society Organisation
CTSCA	California Transparency in Supply Chains Act 2010
DE	Germany
DDA	Due Diligence Act
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms / European
ECHR	Convention on Human Rights
ECTHR	European Court of Human Rights
FBK	Fund against Child Labour (Fonds Bestrijding Kinderarbeid)
GMACL	Global March Against Child Labour
ILO	International Labour Organization
IRBC	International Responsible Business Conduct
LDV	Law on the Duty of Vigilance
LK	Sri Lanka
MSA	Modern Slavery Act
MP	Member of Parliament
NAP	National Action Plan on Business and Human Rights
NFRD	Non-Financial Reporting Directive
NGO	Non-Governmental Organization
NL	The Netherlands
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
OSCE	Organisation for Security and Co-operation in Europe
RVO	Netherlands Enterprise Agency (Rijksdienst Voor Ondernemend Nederland)
SDG	Sustainable Development Goal
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNGC	United Nations Global Compact
OHCR	Office of the High Commissioner for Human Rights
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations International Children's Emergency Fund
US	United States

# The End of Child Labour in 2025: A Path to Victory

## 1. Introduction and research question

### 1.1. Introduction

Child labour has been explicitly identified as a social problem during the 19<sup>th</sup> century. It resulted in national legislative measures in many industrializing nations, such as the US, the UK and the Netherlands. In the course of the 20<sup>th</sup> century, international conventions followed, in particular developed and adopted by the ILO. The first ILO convention addressing child labour was adopted exactly 100 years ago this year: ILO Convention No. 5 setting a minimum age of 14 for industrial employment.<sup>1</sup> Many more conventions on child labour for other sectors of the labour market followed and were kind of compiled, updated and specified in ILO convention 138 adopted in 1973. Despite all these standard setting activities child labour was not high on the international agenda until about 1990. At the occasion of the unification of East and West Germany and the adoption of the CRC by the UNGA in 1989 the government of Germany donated 50 million Deutsch Mark to the ILO for the establishment of the International Program of the Elimination of Child Labour (IPEC) that till today plays an important role in many countries, supporting governments in their efforts to prevent and eradicate child labour. Another important event was the adoption in 1999 of the ILO convention 182 for the elimination of the worst forms of child labour.

The costs and benefits of eliminating child labour have been calculated by the ILO, in 2003. The main cost would be to make sure all children receive (quality) education instead of being exploited as child labourers. The result of the study was that globally, projected benefits would exceed costs by a ratio of 6.7 to 1.<sup>2</sup> Even though this is an old calculation and the number of child labourers has gone down and a lot of investment in schools have already been made, it is not to be expected that the ratio of costs and benefits of sending children to school instead of work has changed significantly. According to the ILO study, 'the gap between the benefits and costs is so great that it is sure to withstand reasonable adjustments'.<sup>3</sup> One of the main effects of eliminating child labour is that the wages of remaining workers go up. Countries in which child labour is rampant, often also have high unemployment. Therefore, the benefits of eliminating child labour are not only sizeable in the long term, but also in the short term. In the short term, the costs are higher than the benefits.<sup>4</sup>

Despite these developments, the net positive benefits of eliminating child labour and the obligation of many States to protect children from child labour, an estimated 151.6 million children are child labourers today and almost half of them, 72.5 million children, are in hazardous work.<sup>5</sup> Countries have been working to eradicate unacceptable child labour practices for over 200 years, and this has proven to be successful. In many countries today, child labour is a rarity. Not just in the most developed countries, but countries as Sri Lanka have also proven it is possible to eradicate child labour, even in difficult circumstances such as high poverty and internal conflict.<sup>6</sup> The high ratification rate of ILO conventions

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<sup>1</sup> ILO 5.

<sup>2</sup> ILO 2003.

<sup>3</sup> ILO 2003, 4-5.

<sup>4</sup> ILO 2003, 6.

<sup>5</sup> ILO 2017, 9.

<sup>6</sup> UNICEF 2019. Global Data Bases Child Labour, as retrieved from <https://data.unicef.org/topic/child-protection/child-labour/>, last visited 6 May 2019.

138 and 182 has however not yet lead to the eradication of child labour. The ILO Global Action Plan to Eliminate Child Labour aimed to eliminate all worst forms of child labour by 2016.<sup>7</sup> That goal has not been met.

The new goal, as formulated as part of the Sustainable Development Goals (SDG's), is to eradicate all forms of child labour by 2025.<sup>8</sup> Child labour has been decreasing, but the decrease is slowing. If the decrease continues at the current rate, there will still be 121 million child labourers in 2025<sup>9</sup> and the goal will not be met. Again.

To eliminate child labour in 2025 swift and bold actions are needed by all countries. The ILO has identified six factors that contribute to the continued existence of child labour in countries. These are a lack of legal protection (1), poverty and social vulnerability (2), lack of resilience towards (unexpected) life events (3), lack of quality education (4), inadequate decent work possibilities (5) and a lack of social dialogue (6).<sup>10</sup> The ILO IPEC program helps countries formulate and execute effective legislation, policies and programs to fight child labour.<sup>11</sup> The ILO is a prominent member of the new Alliance 8.7, an international partnership between international organizations, countries and NGOs dedicated to achieve the new SDG goal on forced labour, trafficking and child labour.<sup>12</sup> Fifteen so called *Pathfinder Countries* 'commit to going further and faster to achieve the objectives of Target 8.7 of the Sustainable Development Goals. They are countries committed to accelerating efforts and willing to try new approaches from which others can learn to support Target 8.7's urgent deadlines'.<sup>13</sup>

All countries need to take bold actions. That includes the ones which do not have (much) child labourers within their own borders. In all countries in the world, products made with child labour are sold. In the supply chains of most multinationals, there is a risk of child labour being used. Even though it is estimated only 5% of child labour exists in export related enterprises<sup>14</sup>, that does not mean only 5% of child labourers work on products that are eventually exported. Export related enterprises can be free of child labour themselves, but use materials, products and services that have been produced with child labour.

The good news is there are plenty of best practices to learn from. Approaches should never be copied one on one and be expected to produce the same result, but history has shown that eradicating child labour can be done using similar approaches. Some countries, such as The Netherlands, Sri Lanka and other pathfinder countries are working hard on new approaches, to try to ensure the continued and speedy decline of child labour around the world. Other countries can definitely benefit from their experience.

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<sup>7</sup> ILO 2006, p85.

<sup>8</sup> UNGA, goal 8.7.

<sup>9</sup> ILO 2017, p27.

<sup>10</sup> ILO 2018, 31.

<sup>11</sup> ILO 2019.

<sup>12</sup> Goal 8.7: Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure 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.

<sup>13</sup> Alliance 8.7, 1.

<sup>14</sup> Mansoor 2004, 6.

## 1.2. Research question

The pathfinder countries are now in the process of formulating policies and actions to be taken. Some, like Uganda, have already finished their plan. Alliance 8.7 does not provide a blueprint or building blocks to these countries on how to achieve goal 8.7.<sup>15</sup> This thesis hopes to contribute to the work of the pathfinder countries and all other countries which want to help eliminate child labour by identifying impactful measures and approaches by States and can hopefully serve as inspiration to policy makers and influencers around the world by suggesting additional actions to eliminate child labour by 2025. The focus of this thesis on the role of States, working together with and enticing all other relevant actors.

The central question this thesis will address: How can the practice of implementing International Standards be improved to eradicate child labour by 2025?

The sub-questions that have to be answered related to the central question:

- What are the international standards relevant for the eradication of child labour?
- What are effective measures and approaches developed and implemented by States (and others) for implementation of the international standards?
- Which additional measures could be taken by States to achieve the eradication of child labour by 2025?

Chapter two identifies relevant international standards and guidelines. It covers ILO conventions 138 and 182, the Universal Declaration of Human Rights, the Convention on the Rights of the Child, the European Convention on Human Rights and the African Charter on the Rights and Welfare of the Child and the UN Guidelines on Business and Human Rights and the OECD Guidelines for multinational enterprises.

Chapter three discusses best practices in eradicating child labour in a historical context and explores presents-day best practices in State action against child labour, such as legislation, education and inspection. Two countries, The Netherlands and Sri Lanka serve as best practice countries and are further elaborated on in this chapter.

In chapter four the focus will be on the role of the State to exemplify, regulate, co-operate, facilitate and collaborate to increase the number of companies to do their child labour due diligence. It also contains a paragraph on existing (child labour) due diligence legislation which evaluates their strength along ten criteria.

Finally, this thesis will conclude with what the path to victory to the eradication of child labour in 2025 could look like and what actions States could take to follow that path.

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<sup>15</sup> Source are interviews the author of this thesis had with Marco Dubbelt, representative of Global March Against Child Labour on 22-05-19 and 10-07-19.

## 2. International standards and guidelines

### 2.1. ILO conventions

The two most important ILO conventions on child labour are among the most ratified international legal instruments in the world.<sup>16</sup> With the ratification of the conventions by India in 2017<sup>17</sup>, 93% of all children now live in a country which have ratified the ILO conventions.<sup>18</sup> The conventions contain (elements of) a definition of child labour, but countries can and do make their own definition because of the formulation of these conventions and other international standards that allow for tailor-made definitions of what child labour is. So what is considered child labour or hazardous child labour in one country is not necessarily defined the same way in the next country. So the exact definition of child labour is therefore not universal, but the bandwidth of the definitions are clear.

ILO convention 138, adopted in 1973, specifies that the minimum age for admission to employment 'shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years'.<sup>19</sup> However, developing countries can set this minimum age at 14 if they so choose<sup>20</sup> and specified work or employment can be exempted all together<sup>21</sup>. Exceptions can also be made for light work, which is 'not likely to be harmful to their health or development' and 'not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received'.<sup>22</sup> Light work can be done by children who are two years younger than the minimum age of admission to employment, so starting at 12 or 13 years of age.<sup>23</sup> Exceptions to all articles listed in this paragraph are allowed on an individual basis 'for such purposes as participation in artistic performances'.<sup>24</sup>

In 1999, ILO Convention 182 followed and further defines what is hazardous or harmful work.<sup>25</sup> This includes:

- '(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;*
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;*
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;*
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.'*<sup>26</sup>

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<sup>16</sup> ILO 138 and 182.

<sup>17</sup> India 2017.

<sup>18</sup> ILO 2018b, 2.

<sup>19</sup> ILO 138, art.2.3.

<sup>20</sup> ILO 138, art.2.4.

<sup>21</sup> ILO 138, art.4.1.

<sup>22</sup> ILO 138, art.7.1.

<sup>23</sup> See supra.

<sup>24</sup> ILO 138, art.8.1.

<sup>25</sup> ILO 1999, art.3.

<sup>26</sup> ILO 1999, art.3.

Each of these categories leaves room for States to further define what is a worst form of child labour, but especially category d enables States to include or exclude types of work or employment. States need to list the types of work in this category, but which types States list is up to them.<sup>27</sup>

The definition of child labour is thus not universal. Even countries that make sure their national laws fully conform with the ILO Conventions and the CRC can still come up with totally different definitions of what is light work, work and hazardous work, exclude different types of work and choose different age brackets for each category. A country can easily set the minimum age of work at 18 and make no exceptions for light work or any other type of work, but there is no country in the world that has done so. So each country has a more complicated definition of child labour than that and most are a page long or longer, often containing appendixes with lists and exceptions.<sup>28</sup>

## 2.2 Human rights treaties

The Universal Declaration of Human Rights (UDHR) of 1948 states in article 4 that 'No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms'.<sup>29</sup> The European Convention on Human Rights (ECHR) of 1950 has a corresponding article 4 which states that 'No one shall be held in slavery or servitude', but which also states that 'No one shall be required to perform forced or compulsory labour'.<sup>30</sup> States thus have a duty to protect their citizens from violations of these rights. The European Court of Human Rights (ECtHR) considers that 'together with Articles 2 and 3, Article 4 of the Convention enshrines one of the basic values of the democratic societies making up the Council of Europe',<sup>31</sup> and has repeatedly found 'that States have positive obligations, in the same way as under Article 3 for example, to adopt criminal-law provisions which penalise the practices referred to in Article 4 and to apply them in practice'.<sup>32</sup> The ECtHR has found that 'Children and other vulnerable individuals, in particular, are entitled to State protection, in the form of effective deterrence, against such serious breaches of personal integrity'.<sup>33</sup>

In 1989, the Convention on the Rights of the Child (CRC) was adopted. Article 32 of this convention contains 'the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development'.<sup>34</sup> Children are defined as any person under 18 years of age.<sup>35</sup> The CRC also calls for a minimum age of employment (without specifying further) and legislation on working hours and the conditions of employment and proper enforcement of those laws (again without specifying further).<sup>36</sup>

CRC Article 36 further stipulates that 'States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare'.<sup>37</sup> Article 19 defines a broader protection of

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<sup>27</sup> ILO 1999, art.4.

<sup>28</sup> Bhukuth 2008, 386.

<sup>29</sup> UDHR, art.4.

<sup>30</sup> ECHR, art.4.

<sup>31</sup> *Siliadin v. France*, §82.

<sup>32</sup> *Siliadin v. France*, §89 and *C.N. and V. v. France*, §51.

<sup>33</sup> *Siliadin v. France*, §81.

<sup>34</sup> CRC, art.32.1.

<sup>35</sup> CRC, art.1.

<sup>36</sup> CRC, art.32.2.

<sup>37</sup> CRC, art.36.

children by stating that ‘States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child’.<sup>38</sup> That protection includes the ‘establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement’.<sup>39</sup>

Exploiting children in child labour also makes the realization of many other rights children have impossible. Primary those are the right to education, the right to play, the right to development.

The African Charter on the Rights and Welfare of the Child (ACRWC) was adopted in 1990 and is the only regional children’s rights instrument. The formulation of art. 15 on child labour is very similar to the CRC, but it also stipulates that the article ‘covers both the formal and informal sectors of employment’,<sup>40</sup> which is important, because most child labour occurs in the informal sectors, notably work in the family environment. The article also promotes ‘the dissemination of information on the hazards of child labour to all sectors of the community’.<sup>41</sup>

Because of the wide ratification of the ILO conventions, the UDHR, the CRC and the applicability of the ECHR for all Council of Europe member States and the ratification of the ACRWC by 47 member States of the African Union, this thesis submits that every State in the world has a positive obligation to protect children from child labour.

### **2.3. International Guidelines**

Since the introduction of the UN Guidelines on Business and Human Rights<sup>42</sup> and the revised OECD Guidelines for Multinational Enterprises<sup>43</sup> in 2011, a multitude of initiatives have been set up to encourage enterprises to implement these guidelines. Due to the nature and impact of child labour, many initiatives focus solely or specifically on that. This paragraph presents an introduction to child labour due diligence. Chapter 4 offers an overview of initiatives, with a specific focus on actions by governments.<sup>44</sup>

Child labour is a systemic challenge in many countries where global supply chains are present. Tackling child labour requires a holistic and comprehensive approach to address the root causes of the problem. These include but are not limited to: living wages, improving access to and quality of education and closing governance gaps. The systemic challenges contributing to child labour are diverse.<sup>45</sup> Even if enterprises do not contribute and cannot resolve these systemic challenges, governments and

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<sup>38</sup> CRC, art. 19.1.

<sup>39</sup> CRC, art.19.2.

<sup>40</sup> ACRWC, art. 15.2.

<sup>41</sup> ACRWC, art.15.2(d).

<sup>42</sup> UN OHCHR 2011.

<sup>43</sup> OECD 2011.

<sup>44</sup> This paragraph and chapter 4 build on a yet unpublished paper written by the author of this thesis for the OECD in 2017. Since (parts of) that might be published in the future or may have been published without my knowledge, it is mentioned here.

<sup>45</sup> OECD2017b, 102.

consumers alike expect them to identify, prevent and remedy child labour in their operations and supply chains.

The OECD Guidelines for Multinational Enterprises (the Guidelines) are 'recommendations addressed by governments to multinational enterprises'.<sup>46</sup> They are a 'code of responsible business conduct'.<sup>47</sup> According to the Guidelines, enterprises should contribute 'to the effective abolition of child labour, and take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency'.<sup>48</sup> Some governments have stated that all enterprises should operate in accordance with the Guidelines.<sup>49</sup>

The responsibility of an enterprise goes (far) beyond its own operational scope. If an enterprise finds child labour in its own operations, the enterprise has directly caused it and is expected to eliminate it and find suitable remedy for the children involved. However, child labour can also contribute to products and services of an enterprise from outside its own operation. The Guidelines state that enterprises are expected to identify (risks of) child labour in their supply chain, from raw material to end product to recycling and waste.

The central concept in the Guidelines relating to the identification and handling of risks is *due diligence*. It is a process for enterprises to 'identify, prevent, mitigate and account for how they address their actual and potential adverse impacts as an integral part of business decision-making and risk management systems'.<sup>50</sup> The child labour due diligence process leads to an overview of where an enterprise has caused or contributed to child labour and where it is (possibly) directly linked to child labour. The three categories *cause*, *contribute* and *directly linked* are the same as the UN Guidelines on Business and Human Rights (UN Guidelines).<sup>51</sup> Some terms have led to confusion and attempts to clarify them have not always been successful. As a result, it is important to follow the categories as they are incorporated in the Guidelines and UN Guidelines.<sup>52</sup> An enterprise is only directly linked to child labour if the exploitation is linked to the operations, products or services of an enterprise.<sup>53</sup>

Therefore, part of the due diligence process is thus to determine whether there is a risk of child labour in the supply chain of an enterprise and in what category these risks belong. Several factors should be considered in relation to each other. John Ruggie, the author of the UN Guidelines, has stated that these factors 'include the extent to which a business enabled, encouraged, or motivated human rights harm by another; the extent to which it could or should have known about such harm; and the quality of any mitigating steps it has taken to address it'.<sup>54</sup>

In practical terms, if (a risk of) child labour is found, the category in which it falls determines the action an enterprise should take. If an enterprise has caused child labour, it has to resolve the situation. If it is contributing to child labour, for example through pressure to decrease costs or to expand production

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<sup>46</sup> OECD 2011, 13.

<sup>47</sup> OECD 2011, 13.

<sup>48</sup> OECD 2011, 35.

<sup>49</sup> NL 2019.

<sup>50</sup> OECD 2011, 23.

<sup>51</sup> UN OHCR 2011.

<sup>52</sup> Ruggie 2017.

<sup>53</sup> Ruggie 2017, 2.

<sup>54</sup> Ruggie 2017, 2.

suddenly, it should work to minimize its contribution. If an enterprise is directly linked to child labour in its supply chain, it has to contribute to resolving that situation. The Guidelines expand further that '[p]otential impacts are to be addressed through prevention or mitigation, while actual impacts are to be addressed through remediation'.<sup>55</sup>

The OECD has published specific due diligence guidance for the garment and footwear<sup>56</sup>, minerals<sup>57</sup>, and agricultural<sup>58</sup> sectors. These guidances can also be helpful to enterprises from other sectors. For example, the 6 steps of the due diligence process in the guidelines for the garment and footwear sector<sup>59</sup> can be applied in any sector. They are:

1. *Embed*: Include responsible business conduct in enterprise policy and management systems
2. *Assess*: Identify potential and actual harm in the enterprise's own operations and in its supply chain
3. *Resolve*: Cease, prevent or mitigate harm in the enterprise's own operations and in its supply chain
4. *Track*: Verify, monitor and validate progress on due diligence and its effectiveness in own operations and the enterprise's supply chain
5. *Communicate*: Communicate with affected stakeholders and publicly on the enterprise's due diligence processes
6. *Remedy*: Provide for, or cooperate in, remediation when appropriate

### 3. State strategies against child labour

#### 3.1. Legal standards and regulation

The ILO has stated that progress in the elimination of child labour 'relies centrally on an active government policy response [...] that addresses the array of factors that push or pull children into child labour'.<sup>60</sup> A successful elimination of child labour in a State starts with defining what child labour is in legislation. Legislation with a clear definition enables the government to communicate what type of work children can and cannot do. It also enables a government to govern the formal and informal labour market and to actively reduce child labour. In The Netherlands, and other countries, parents and/or caretakers are also liable if their children are involved in child labour.<sup>61</sup>

From a children's rights perspective, the minimum requirement for legal definitions of child labour and the worst forms of child labour should be in conformity with ILO conventions 138 and 182, the CRC and, where applicable, the ACRWC. As stated, the simplest definition would be to prohibit every kind of work for all children. If enforced, this would provide children with the best protection against exploitation. However, it would also deprive children of essential opportunities to develop, which right they also have.<sup>62</sup> Work can be part of education, participating in cultural activities and work that does not harm

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<sup>55</sup> OECD 2011, 23.

<sup>56</sup> OECD 2017b.

<sup>57</sup> OECD 2016.

<sup>58</sup> OECD FAO 2016.

<sup>59</sup> OECD 2017b, 20.

<sup>60</sup> ILO 2018, 5.

<sup>61</sup> Arbeidstijdenwet 1995, art.3.1.

<sup>62</sup> CRC, art.6.2.

the development of children can provide additional (family) income. Because of these, and other, reasons, countries choose to adopt a more complex definition of child labour and allow certain age groups certain types of work.

Research for this thesis, consisting of interactions with Members of Parliament (MPs)<sup>63</sup>, has shown that the definition of child labour is often outdated, the list of hazardous child labour is sometimes missing and often incomplete and the enforcement of laws is, especially in lower income countries, weak.

ILO convention 138 contains specific minimum ages for work and light work. Developing countries are allowed to use a minimum age one year lower than other countries. Some countries use a different minimum age for court ordered community service.

Countries should have a list of hazardous child labour. Work that is hazardous for adults, is also hazardous for children. But because of the continuing development of children, many types of work that are not hazardous for adults are hazardous for children. To safeguard their right to development and other rights, children should be allowed to lift less, not work with dangerous tools and equipment, etc.

New forms of child labour, such as vlogging, high speed delivery services and opening toys on YouTube are often unregulated or not included on the list of hazardous child labour.

The enforcement of child labour legislation, especially in countries where many children work, needs a sufficient allocation of funds. Article 4 of the CRC contains the positive obligation of States to use the maximum extent of their available resources.

This thesis therefore submits that countries should continuously review whether current ages and types of work are still adequate to safeguard the best interests of children<sup>64</sup>, update their list of hazardous child labour and prioritize enforcement of child labour legislation.

### **3.2. Compulsory quality education**

Article 26 of the Universal Declaration of Human Rights states that 'Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory.' Article 28.1 of the CRC elaborates on this right and includes primary, secondary and higher education and implores states to take measures to reduce drop-out rates.

The number of children who are out of school have been steadily dropping for decades.<sup>65</sup> Making education compulsory, if enforced, can be a very effective strategy to reduce child labour. Historical examples, such as The Netherlands, and modern examples, such as Sri Lanka, prove this (see paragraph 3.4). Especially if the law is enforced and there are no direct or indirect costs for parents to send their children to school, attendance rates can be improved. Unfortunately, in many countries and

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<sup>63</sup> In the four years leading up to this thesis, the author of the thesis was the chair of Parliamentarians Without Borders for Children's Rights, a project of Global March Against Child Labour bringing together MPs from all over the world to discuss children's rights. In meetings in Nepal, The Netherlands, Togo, Sri Lanka and Belgium, over 100 MPs exchanged information on child labour definitions, policies and programs. Qualitative information from these meetings is used as primary research information.

<sup>64</sup> CRC, art.3.1.

<sup>65</sup> Worldbank 2019.

regions, the quality of education is low. Teachers are often underqualified or unqualified. There is often also a lack of books and study materials. Language can be a big obstacle to getting the most out of school too. This does not only concern migrant or refugee children, but also children who speak a different language at home than at school. Schools are often only a few hours a day, not a full day, and children miss school due to preventable illnesses, stigma around the menstruation and other reasons. A lack of nutrition also affects school performance and attendance. There are plentiful impactful projects around the world, providing school meals, free sanitary pads, training for teachers, hygiene training to children, better light at home to do homework and others that could make more children go to school or enable children to get more out of school that deserve replication.<sup>66</sup> After decades of focusing on school attendance and drop-outs, the international community has finally recognized the importance of the quality of education by including it in the SDGs.<sup>67</sup>

### 3.3. Income transfer programs

An essential part of eliminating child labour are income transfer programs. Especially if child labour is common, many families depend on the income of these children working. If child labour is eliminated overnight, their family income will drop and push these families (further) into poverty. The ILO has therefore advocated for income transfer programs.<sup>68</sup> The CRC also contains a right to an adequate standard of living.<sup>69</sup>

In recent years, unconditional cash transfer programs have proven to be very impactful, in all regions of the world.<sup>70</sup> The economical costs of income transfer programs, such as calculated by the ILO in 2003<sup>71</sup> could be much lower if an unconditional cash transfer program was used. The primary advantage of this type of program is that no target group (other than for example nationality or residency) has to be identified. As the ILO notes, there is no economic costs to transferring money from one group to another group. Only the administrative costs are economic costs. By using an unconditional program, these administrative costs can be minimized. Of course, other schemes and programs can also serve to guarantee the right of children to an adequate standard of living.

### 3.3. International cooperation

Because not all countries have the resources to bare the costs of eliminating child labour in the short run, the CRC, SDGs and ILO ask countries to help each other guarantee rights and achieve goals (faster). In recent years, international aid budgets for education have gone down, with up to 50% for Sub-Sahara Africa.<sup>72</sup> This does not help the elimination of child labour. The UN Envoy on Education, Gordon Brown, has stated that 30 billion dollars in extra annual aid for education would be enough to reach the education goals of the SDGs.<sup>73</sup>

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<sup>66</sup> In the four years leading up to this thesis, the author of the thesis was the chair of Parliamentarians Without Borders for Children's Rights, a project of Global March Against Child Labour bringing together MPs from all over the world to discuss children's rights. In meetings in Nepal, The Netherlands, Togo, Sri Lanka and Belgium, over 100 MPs exchanged information on child labour definitions, policies and programs. Qualitative information from these meetings is used as primary research information.

<sup>67</sup> UNGA, goal 4.

<sup>68</sup> ILO 2003, 49-58.

<sup>69</sup> CRC, art. 27.1 and 27.3.

<sup>70</sup> Bregman 2018, 55-72.

<sup>71</sup> ILO 2003, 63.

<sup>72</sup> UNESCO 2017.

<sup>73</sup> Express 2016.

The ILO IPEC program has proven successful in supporting countries such as Sri Lanka to improve legislation and regulation and entice states to work together with associations of employers and employees. It has produced useful tools and done research on successful strategies to eliminate child labour.<sup>74</sup> With additional support, the program could be expanded.

NGOs also play an important role in the elimination of child labour. Especially in countries where the government does not give priority to the elimination of child labour. NGOs have successfully implemented child labour free zones and child friendly villages, in which children are not exploited. They are also important funders of education, social programs and other programs that help reduce child labour. Increased support for NGOs would directly and indirectly help the elimination of child labour.

### **3.4. Good practices: The Netherlands and Sri Lanka**

#### *3.4.1. Child labour in The Netherlands*

This thesis submits that The Netherlands today is THE best practice when it comes to eliminating child labour. The country had a long history of child exploitation in agriculture, domestic work and industry, but has (virtually) eliminated child labour in its borders decades ago. The country uses almost all tools available to contribute to the end of child labour everywhere in the world. Of course, it could do more. But this thesis submits there is no country that is doing more at this point in time.

At the start of the 20<sup>th</sup> century, The Netherlands was in no way a best practice eliminating child labour. Child labour was widespread, in factories, agriculture and domestic work. Starting in the 1840's, there was a continuous debate on child labour and several State committees studied the prevalence of child labour and made recommendations. Because of the economic consequences of reduced child labour on families, they came to the conclusion no legislation was needed.<sup>75</sup> Public pressure on companies and the government to do something against the rampant child labour kept increasing. Newspapers kept printing pleas for action and stories on the horrors of child labour. Groups of entrepreneurs who employed children started petitioning the government for a law, because they wanted to work with child labour but feared their businesses would not survive if they hired adults instead of children, but their competitors did not.<sup>76</sup>

In the end, after decades of debate, it was not the government which drafted the first child labour law in The Netherlands, but a Member of Parliament (MP). Samuel van Houten was a liberal MP and he put forward an initiative law in 1873 which, watered down, was accepted in 1874. Labour by children under 12 would be prohibited. However, because it was an initiative law and because of the results of the the debates that forced him to make changes, the law was flawed. The law excluded agricultural and domestic work and contained no provisions for enforcement. This severely limited the impact of the law.<sup>77</sup> However, it was the first law regulating labour and a social issue, and many would follow. That is why up to today, the children's law of Van Houten (*kinderwetje van Van Houten*) is seen as a groundbreaking law.

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<sup>74</sup> ILO 2007.

<sup>75</sup> White 1994, 16.

<sup>76</sup> Leidse Canon 2019, 1.

<sup>77</sup> Drongelen 1990, 21-27.

Van Houten's law was not only flawed in its scope and enforcement. In court, judges gave broad interpretations to the language used in the law. Whether a child was 'employed' or not, was in those times hard to determine. Many children did not work on the basis of a contract or other written agreement. The exceptions to the law (agriculture, personal services and domestic work) were not defined by Van Houten and judges relied on the minutes of the debates in parliament and again gave the broadest explanation possible.<sup>78</sup>

Because of these weaknesses of the law, the debate to strengthen it started almost as soon as the law was adopted.<sup>79</sup> However, due to political and practical reasons, all attempts to propose new legislation would fail in the next 15 years. In 1889, a general labour law (Arbeidswet) was adopted, also containing provisions regulating child labour. A labour inspection, with 3 inspectors for the whole country, was also established. Child labour remained widespread, despite these laws.<sup>80</sup>

It was the law on mandatory education of 1900 (Leerplichtwet) that changed everything. Children between 6 and 12 years old were now obliged to go to school, which drastically reduced child labour among children that age. Child labour after the age of 12 remained common.<sup>81</sup> In 1919, a new labour law (Arbeidswet) raised the minimum age for employment to 15. In the 1970's, both compulsory education and the minimum age for working were raised in several steps to keep children in school and out of work until they were 16.<sup>82</sup>

In 1995 a labour work hours law (Arbeidstijdenwet) was enacted which has not been replaced since. It contains the current ban on child labour and stipulates how many hours children can work. Work can start at 13, but only light work, for maximum 2 hours on a school day and 7 hours on a non-school day. From 16 onwards, there is still partial compulsory education (for 2 days a week) and work can never conflict with that.<sup>83</sup> An interesting part of the law is the both the employer and parents/caretakers can be liable in a case of child labour.<sup>84</sup>

It was another Member of Parliament, the author of this thesis, who wrote the Dutch law on child labour due diligence. First, an initiative paper on the options for the banning of products and services that were made with child labour was discussed in Parliament. That debate resulted in a possible majority for a due diligence law when written, but much would depend on the exact formulation of the law. Eventually, the goal of the law became the protection of consumers against buying products of child labour, which they do not want. This allowed for the regulation of products sold to consumers only and not products imported and exported again (which would have severely impacted the port of Rotterdam and many other companies). It also opened the door for a legal defense of the law on the basis of article XX of the GATT, which allows for laws that do not comply with free trade agreements when this is necessary for the protection of public morals.<sup>85</sup>

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<sup>78</sup> Dongelen 1990, 22.

<sup>79</sup> Drongelen 1990, 22-23.

<sup>80</sup> Drongelen 1990, 27.

<sup>81</sup> White 1994, 18.

<sup>82</sup> Drongelen 1990, 374.

<sup>83</sup> Bakels et al 2003, 35-36.

<sup>84</sup> Arbeidstijdenwet 1995, art.3.1.

<sup>85</sup> GATT, 562.

The law requires enterprises to make a risk assessment and, if there are risks, a plan of action. Enterprises formally declare they have made these in accordance with OECD guidelines on child labour due diligence to a National supervisory body. Enterprises do not have to send their assessment or plan of action to the supervisory body and do not have to make it public. This is done to minimize the cost to enterprises and the administrative costs of the law to the government. There are 1.5 million enterprises in The Netherlands and checking all the assessments and plans of action would not be possible anyway.

The supervisory body can however review the assessment and plan after a complaint is filed and give an injunction to the company if they are found inadequate. If the injunction is ignored or not fully executed, the supervisory body can fine companies up to 10% of their annual turnover. If an enterprise does not comply with injunctions from the supervisory body twice within five years, the management of the company can be criminally prosecuted and sentenced to jail for up to 2 years. The bill was presented to parliament in 2016 and adopted by the second chamber in 2017 and the first chamber (senate) in 2019, but essential elements of the law have to be clarified in administrative orders before the law can take effect. After extensive debate with the responsible minister, the supervisory body is not named in the law, it is up to the government to pick one or establish a new one (what the initiator wanted). The administrative orders also have to clarify which enterprises do not have to send in a declaration (this could be sectors without much international trade for example) and the administrative orders have to clarify when enterprises do or do not comply with the law (how much they should invest in due diligence for example). It is expected the law will take effect on the 1<sup>st</sup> of January 2022.<sup>86</sup>

Together with another member of parliament, Joel Voordewind, the author of this thesis also put in place support to help companies do their due diligence. Funding for both NGO's and enterprises to do child labour due diligence and fight child labour increased between 2012 and 2017 from around €3m to €15m annually.<sup>87</sup> In that same period, the responsible minister for international trade, Lilianne Ploumen, started pushing companies to sign International Responsible Business Conduct (IRBC) agreements, detailing how and when companies will do their due diligence. These agreements are concluded between companies, trade unions, NGO's and the government per sector. Trade unions and NGO's receive grants to participate in both the formulation and execution phase of the process (the grants are currently €150k per year per sector). The current government has increased its support for both NGO's, making an extra €5m available each year. It has also increased its support for the ILO IPEC program significantly.

The Netherlands is one of the few countries that invests in IRBC agreements. It is also one of the few countries that contributes significantly to NGO's and the ILO to fight child labour. And it is the only country in the world that has a child labour due diligence fund and law. That makes it the leading country in the fight against child labour at this time. Remarkably enough, it has not named itself a pathfinder country with Alliance 8.7. This thesis submits that would be a logical step to take, since its approaches can definitely serve as examples of good practices to other (pathfinder) countries.

#### 2.4.2. *Child labour in Sri Lanka*

The Netherlands is the leading country when it comes to fighting child labour, but that does not mean there aren't other good examples. That a country like The Netherlands is leading, is also not very

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<sup>86</sup> NL Senate 2019.

<sup>87</sup> NL 2018, 23.

surprising. It is a high income country that started the fight against child labour over 100 years ago and it has all the means and resources needed to contribute to the fight against child labour globally. It is much more surprising that a lower middle-income country which was engulfed in an international armed conflict for decades and is situated in a region famous for its widespread child labour has succeeded in virtually eliminating child labour within its borders. That most surprising country is Sri Lanka and is highlighted in this theses because of its extraordinary achievement. Other countries can surely learn from this example. Sri Lanka is a pathfinder country, and often praised, for example by the ILO, for its commitment to and results in the elimination of child labour.<sup>88</sup> Currently, around 1% of the children of Sri Lanka work in child labour (43.000). Almost all of them do hazardous work (39.000).<sup>89</sup>

There are no statistics on child labour in Sri Lanka from before 1998.<sup>90</sup> A survey that year let an author to the estimation that around 1,5% of children between 5 and 13 were active in child labour.<sup>91</sup> Much higher percentages of children 14 and older were engaged in economic activity, but on the basis of the survey, one could not conclude whether they were engaged in child labour or hazardous child labour.<sup>92</sup> Child labour was prevalent in agriculture (including plantations), fishing, street work and domestic work. Children were also exploited as child soldiers, exploited sexually and in slavery.<sup>93</sup> In 1999, Sri Lanka started implementing actions against child labour in the form of *Child Labour Free Zones*. This approach has proven to be successful.<sup>94</sup>

In 2017 the country has published *The National Policy on Elimination of Child Labour in Sri Lanka*.<sup>95</sup> This policy document provided a concise overview of all relevant legislation, actors, legislative initiatives and actions the government wants to take to eliminate child labour in 2022, three years ahead of the global goal. Sri Lanka has published a list with typed of hazardous work, has increased the age for compulsory education to 16 and will increase the minimum age for admission to employment to 16 accordingly. It also commits to many other (legislative) actions to eliminate child labour. These include the mainstreaming of anti-child labour actions throughout the government, because child labour does not exist in isolation, enforcing conditions of employment, training of young persons,<sup>96</sup> inter- and intra-agency co-operation, strengthening enforcement through training, improved age verification (including ID cards for all children and young people), improved labour inspections and effective prosecution and penalties.<sup>97</sup>

A small paragraph of the policy is dedicated to the wish of the government to partner with the private sector and the responsibility of the private sector to make sure their supply chains are free of (domestic) child labour.<sup>98</sup> There is no mention of a policy or action geared towards extra-territorial child labour due diligence. Hopefully, the next update of the policy will elaborate on that, especially because Sri Lanka seems to have found a path to the elimination of domestic child labour.

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<sup>88</sup> Sunday Observer 2019.

<sup>89</sup> Alliance 8.7b, 1.

<sup>90</sup> Herath 2007, 172.

<sup>91</sup> Herath 2007, 173.

<sup>92</sup> Herath 2007, 173.

<sup>93</sup> Herath 2007, 179-181.

<sup>94</sup> Alliance 8.7b, 2.

<sup>95</sup> Sri Lanka 2017.

<sup>96</sup> Currently defined as persons between 14 and 18 years of age. Only children under 14 are currently considered children in Sri Lanka.

<sup>97</sup> Sri Lanka 2017, 14-16.

<sup>98</sup> Sri Lanka 2017, 13.

## 4. Child labour due diligence

### 4.1. Introduction

Due diligence according to the UN and OECD guidelines (see paragraph 2.3 for an introduction to the guidelines) requires a different approach from enterprises than before. The traditional compliance model rests on assumptions that no longer hold.<sup>99</sup> It relies on supplier audits, which have their limitations. Even though supplier audits continue to be widely used, their effectiveness is subject to debate due to the effects of misrepresentation, limited scope and auditing fatigue.<sup>100</sup> Due diligence is notably different from the more traditional compliance approach. Central to a proper due diligence process is an open and continuous dialogue with not only suppliers, but all stakeholders involved.

Child labour is a particularly difficult subject within due diligence. The ILO definitions are clear, but but also leave room for national customization.<sup>101</sup> The definition of a child labourer depends on the age of the child and the nature of the work. An exception to the ILO definition is in the entertainment industry. Furthermore, what is considered child labour differs from country to country and the opinions in society can differ from community to community. A risk-assessment can therefore not focus on the country level, but needs to be more specific.

Another complicating factor is age verification. Age is important in dealing with child labour, because if a child is a few years older, they can work more hours and be given harder work. Therefore, it is common in the formal economy to let children work with a fake identity card (ID).<sup>102</sup> Age verification procedures should respect children's rights and be more thorough than simply checking an ID. Until the age is verified by the (local) government, employees should be considered children. If verification by the (local) government is not possible (for example in the case of migrant workers), other means of verification should be put in place. These can be medical findings, other documents (such as school certificates) and interviews. If the age of an employee can not be verified, the employee should not be hired.<sup>103</sup>

Difficulties can arise in the interview process. Children's responses are often rehearsed which limits the effectiveness of traditional interviews. Considering this, especially in cases of high-risk child labour, assessment methods involving participation are preferred.

One effective way of observing child labour can be found in monitoring committees in the workplace. These Committees can be multifaceted. Within the format of a Committee any risks of hazardous work carried out by children can be overseen; it can also function as a basic first point of call for dispute resolution; it can also educate on child labour through training employees. In some cases, these committees could also go beyond the workplace and work with child monitoring programmes on a community level. If both practicable and successful, the committee could also have a remedial element.<sup>104</sup>

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<sup>99</sup> Locke 2009, 321.

<sup>100</sup> ILO OECD 2014, 14-15.

<sup>101</sup> See paragraph 1.1.

<sup>102</sup> See for example Guardian 2015.

<sup>103</sup> ILO 2016, 11.

<sup>104</sup> OECD 2017b, 15.

Perhaps one apparent oversight is that any kind of dispute resolution mechanism might be unattainable for a child. To address this issue, any kind of grievance mechanism should be accessible to those who can raise concerns on the child's behalf. Examples of this could be 'members of the aforementioned committees, trade unions, community members, procurement staff, local civil society and government officials'.<sup>105</sup> Further scope for a Committee should include hosting training sessions to both government officials and civil society. Furthermore, an enterprise should have a protocol in place if child labour is present to inform the relevant authorities.<sup>106</sup>

Due to many people knowing that child labour is not acceptable, it is often hidden. In factories and other production locations, but also in the supply chain as a whole. Some say that enterprises "assure their insulation from these crimes by using subcontracting schemes".<sup>107</sup>

A zero-tolerance approach to child labour is commonplace, meaning that either the child labourers are quickly fired or contracts are ended as quickly as possible when child labour has been found. Especially in 'checkbox' audits, this often results in automatic denial of the existence of child labour, even when it is rampant. Enterprises shy away from looking further than the checked box, because of difficulties if child labour is acknowledged and found.

Enterprises are encouraged to make child labour an issue which can be discussed openly, for example by assuring suppliers finding child labour will not result in termination of a contract if the supplier wants to work on improving the situation.<sup>108</sup> The same should hold for families involved in the production. If a family admits their children are working with them, it should not have direct negative economic impacts. Such impacts are certainly not in the best interest of the children involved. Instead, an open dialogue on how child labour can be eradicated without doing harm should be conducted. By changing working conditions, salary, working hours and types of work, maybe children can continue working without violating ILO conventions or national legislation. Sometimes, family income can be maintained through other ways than children working, for example by offering an adult family member the labour and income of the child.

Disengagement is necessary when the worst cases of child labour are found.<sup>109</sup> This can be when companies or families do not wish to discuss or improve the situation and when after a period of trying to realise improvements situations of child labour do not improve or worsen. *Continuous improvement* is a term coined to contrast the *zero tolerance* approach. It means an enterprise can continue to engage as long as there is willingness to improve the situation and actual progress is noticeable.<sup>110</sup>

Proper due diligence carries costs and benefits. Many enterprises are working together to share experiences and costs. NGOs and trade unions are shifting their engagement from opposition to co-operation, in order to help enterprises comply with the Guidelines. Governments exemplify, regulate, facilitate and co-operate. Each has its role to play. 'The state has regulatory power but also relies on non-state actors; businesses have economic power and transnational reach to effect change while civil

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<sup>105</sup> OECD 2017b, 15.

<sup>106</sup> OECD 2017b, 15.

<sup>107</sup> Pierce 2011, 585.

<sup>108</sup> OECD 2017b, 15.

<sup>109</sup> OECD 2016, 21.

<sup>110</sup> UNGC 2010.

society have moral authority to evaluate business behaviour. [...] However, for transnational issues, the state lacks authoritative control beyond its borders and needs alternative strategies such as 'orchestration' [...] to enrol intermediaries into sanctioning defecting firms'.<sup>111</sup>

In subsections of paragraph 2 of this chapter, different government actions and collaborations are highlighted, including best practices for each category.

#### 4.2. The role of governments

Governments do have the positive obligation to act. Article 19 of the CRC states that 'States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from [...] exploitation'.<sup>112</sup> That protection includes 'establishment of social programmes to provide necessary support [...] for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment'.<sup>113</sup> This thesis submits that proper due diligence, including a risk analysis and a plan of action to minimize or mitigate these risks, falls within the scope of this article. A government which does nothing thus violates the right of protection of the child. How much a government should do is hard to define, but this chapter will show there is plenty governments can do.

Since the publication of the Guidelines and UN Guidelines, many countries have started drafting a National Action Plan on Business and Human Rights (NAP). Child labour is often a topic within the NAPs. In the plans, governments bring together different types of actions such as regulation, facilitation, co-operation and exemplification. A NAP can "enable policy coherence for responsible business conduct".<sup>114</sup>

At the moment, 24 countries have a NAP in place.<sup>115</sup> Many other countries are currently drafting a NAP.<sup>116</sup> Other countries, such as Australia, have explicitly stated they will not publish a NAP.<sup>117</sup> However, that does not mean those governments are not taking action. In Australia for example, the government is drafting a new law on modern slavery, which includes due diligence.<sup>118</sup>

Nonetheless, it is important to keep in mind that 'a plethora of instruments and public declarations of good will in itself will not promote and protect the rights of children: it is important that these are realised in practice and that the appropriate checks and balances, informed by robust monitoring, be

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<sup>111</sup> Reinecke 2016, 299-329.

<sup>112</sup> CRC, art. 19.1.

<sup>113</sup> CRC, art. 19.2.

<sup>114</sup> OECD 2017.

<sup>115</sup> Belgium, Chile, Colombia, Czech Republic, Denmark, France, Finland, Germany, Georgia, India, Indonesia, Italy, Ireland, Lithuania, Luxembourg, The Netherlands, Norway, Poland, Spain, Sweden, Switzerland, Thailand, UK and the US. See (<https://business-humanrights.org/en/un-guiding-principles/implementation-tools-examples/implementation-by-governments/by-type-of-initiative/national-action-plans>) last visited (25-06-19)

<sup>116</sup> Argentina, Azerbaijan, Czech Republic, Greece, Guatemala, Ireland, Jordan, Japan, Kenya, Latvia, Luxembourg, Malaysia, Mauritius, Morocco, Mozambique, Myanmar, Nicaragua, Portugal, Scotland, Slovenia and Thailand. See (<https://business-humanrights.org/en/un-guiding-principles/implementation-tools-examples/implementation-by-governments/by-type-of-initiative/national-action-plans>) (last visited 25-06-19)

<sup>117</sup> HRLC 2017.

<sup>118</sup> AU 2017.

implemented'.<sup>119</sup> This is a challenge in all countries involved, but promising steps have been and are being taken.

#### 4.2.1 Exemplification

Governments set examples for enterprises with respect to child labour due diligence, for example through procurement practices and through conditions for grants, subsidies, going on State visits, making use of economic diplomacy, etc.. If governments ask enterprises to do child labour due diligence when they want to work for or with the government or get support from the government, this can help companies make the first step to due diligence and rewards companies that have already done so.

The NAPs themselves are a way for governments to set an example. The first step enterprises have to take is include responsible business conduct in enterprise policy. A NAP is a way for a government to do the same. National governments can also stimulate and help the development of actions plans through decentralized administrations and include their plans in (updates of) the NAP, such as the UK has done.<sup>120</sup>

The Dutch Public Procurement Expertise Centre was set up to professionalize procurement and tendering in all government departments. PIANOo brings procurement and tendering experts together and provides advice and practical tips. The Expertise Centre also fosters dialogue between public contracting authorities and private sector companies. PIANOo is part of the Dutch Ministry of Economic Affairs and devotes a lot of attention to sustainable public procurement. They have also published a brochure on best practices in that field.<sup>121</sup>

In Sweden, 21 county councils joined forces to make their public procurement of (mainly) health care products and services sustainable. They did so after child labour and other harmful practices were found in the production of surgical instruments in Pakistan. They co-operate with the National Health Service (NHS) in the UK and with the health care sector in Norway. Concrete actions and results indicate this is a successful partnership. Supplier are made responsible to avoid harmful practices. When they are found nonetheless, suppliers have to take concrete steps such as improving working conditions, salaries or the position of workers.<sup>122</sup>

Some municipalities are ahead of the crowd, and sometimes even ahead of national governments. Public procurement of natural stone, uniforms, soccer balls, food, gifts and many other items have been made sustainable by various municipalities.<sup>123</sup> The EU has financed a project to spread information on best practices<sup>124</sup>, so have various national governments. The Dutch Stop Child Labour coalition has published a toolkit on child labour free procurement by local governments.<sup>125</sup>

All in all, there seems to be a long way to go. Even the best practice governing bodies only source (a small) part of their products and services in a sustainable fashion, and if child labour is considered, it

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<sup>119</sup> Martin-Orlega 2013, 105.

<sup>120</sup> UK 2013, 5.

<sup>121</sup> PIANOo 2019.

<sup>122</sup> OSCE 2017.

<sup>123</sup> Landmark 2012, 1.

<sup>124</sup> Landmark 2012, 1.

<sup>125</sup> SK 2015.

does not disqualify companies who have not done their due diligence, it just costs them a few points on their tender score.

This thesis submits that governments should adopt a NAP and exclude companies who have not done their child labour due diligence from working for or with the government or getting support from the government.

#### 4.2.2. Regulation

Government can take regulatory action. In this paragraph, existing laws from the United States, European Union, United Kingdom, France and a new Dutch law, which is the only law specifically on child labour, will be discussed.

The California Transparency in Supply Chains Act (United States, 2010) requires large retailers and manufacturers doing business in California to disclose on their websites their 'efforts to eradicate slavery and human trafficking from [their] direct supply chain for tangible goods offered for sale'.<sup>126</sup> While enterprises did 'adopt the supply chain reporting, the actual information provided appeared to be quite symbolic in nature'.<sup>127</sup> However, the Act did lead to a series of civil litigation suits in which plaintiffs claim enterprises are making false statements.<sup>128</sup> These suits have been dismissed. The impact of the law seems limited until now, but that does not necessarily have to remain so.

The aim of the EU Directive 2014/95/EU regarding disclosure of non-financial and diversity information (EU, 2014) is to improve company disclosure of social and environmental information in order to identify sustainability risks and increase investor and consumer trust.<sup>129</sup> Enterprises with over 500 employees have to disclose relevant non-financial information to provide investors and other stakeholders with a more complete picture of their development, performance and position and of the impact of their activity. The enterprises are required to give a review of policies, principal risks and outcomes, including on environmental matters, social and employee aspects, respect for human rights, anti-corruption and bribery issues and the diversity on boards of directors. If companies do not have a policy on one of these areas, the non-financial statement should explain why not.<sup>130</sup> The directive obliges government to make national laws, within two years, stipulating how enterprises can conform with the directive. National governments have room to choose their own definitions and standards in their national laws, which makes measuring the impact of the directive difficult. Since the directive focusses solely on reporting and does not formulate minimum standards with which enterprises have to comply, the impact might be comparable to other laws in this paragraph that focus on reporting only.

The aim of the Modern Slavery Act (United Kingdom, 2015) is eliminating modern slavery and trafficking in the 21st Century.<sup>131</sup> Enterprises must publish a slavery and human trafficking statement for each financial year of the organisation.<sup>132</sup> Critics state that the law is not yet successful because many

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<sup>126</sup> California 2015, i.

<sup>127</sup> Birkey 2017, 24.

<sup>128</sup> Foust 2015 and Guardian 2016.

<sup>129</sup> EU NFRD 2014.

<sup>130</sup> EU 2019.

<sup>131</sup> UK 2015.

<sup>132</sup> UK MSA 2015, c. 30, p. 6, s. 54.1.

enterprises do not publish a statement and when they do, do not disclose all risks.<sup>133</sup> The UK government reportedly stated it is not up to the government to ensure enterprises comply with the Act.<sup>134</sup> The ambition of the law is to end modern slavery, and the law could be more impactful if it was enforced and more specific in what enterprises should do as a minimum effort. After the publication of a review, the UK government has now launched a process to see how the law can be strengthened and has announced the establishment of a modern slavery research centre.<sup>135</sup>

According to the Duty of Vigilance of Parent Companies and Ordering Companies (France, 2017), all companies headquartered in France and employing more than 5,000 employees in France, or headquartered in France or abroad and employing more than 10,000 employees worldwide, must set up vigilance plans. Vigilance plans 'include reasonable vigilance measures to identify risks and prevent serious violations of human rights and fundamental freedoms, health and safety of persons and environment resulting from the activities of the company and of the companies it controls, either directly or indirectly, as well as the activities of subcontractors or suppliers with whom an established business relationship is maintained'.<sup>136</sup> After the first round of reporting, several NGOs reported they are not impressed: 'Most of these Plans do not enable us to understand precisely which risks have been identified by the businesses, their location within the group and even less how companies respond to them'.<sup>137</sup> However, both members of parliament and NGO's are putting pressure on the government to make full use of the options the law has to offer to pressure enterprises to comply fully with the law.

The Child Labour Due Diligence Law (The Netherlands, 2019) requires enterprises to make a risk assessment and, if there are risks, a plan of action. Enterprises formally declare they have made these in accordance with OECD guidelines on child labour due diligence to a National supervisory body. The supervisory body can review the assessment and plan after a complaint is filed and give an injunction to the company if they are found inadequate. If the injunction is ignored or not fully executed, the supervisory body can fine companies up to 10% of their annual turnover. If an enterprise does not comply with injunctions from the supervisory body twice within five years, the management of the company can be criminally prosecuted. The law has been adopted by the second and first chamber of parliament, but essential elements of the law have to be clarified in administrative orders before the law can take effect. It is expected the law will take effect on the 1<sup>st</sup> of January 2022.<sup>138</sup>

Due diligence laws have also been announced in Germany<sup>139</sup>, Switzerland<sup>140</sup> and Australia<sup>141</sup>. In most cases, it is too early to tell if these laws are or will be effective. Most of these laws focus on transparency and reporting, without formulating a minimum requirement. Transparency alone does not yield results in itself. Enterprises can also declare they have no policy or make grand statements that are hard to disprove. Research done on the effectiveness of existing laws shows that many enterprises report on general risks in their sector, but not on specific risks in their supply chain. In the coming years, it should become clear if these laws are making a difference on the ground, in the lives of children.

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<sup>133</sup> Guardian 2017.

<sup>134</sup> Guardian 2017.

<sup>135</sup> UK 2019.

<sup>136</sup> Lewis 2017.

<sup>137</sup> Sherpa 2019, 10.

<sup>138</sup> NL Senate 2019.

<sup>139</sup> BHRRC 2019.

<sup>140</sup> SCCJ 2019.

<sup>141</sup> AU 2016.

Even though the full impact of these laws is hard to predict because they are recent, have not been used to their full extent or have not taken effect, there are clear differences between the laws, which can help predict whether they can be impactful or not. On the basis of existing research, 10 criteria to measure the strength of these laws have been developed in this thesis:

1. *Scope*: whether the legislation covers only child labour or also forced labour and trafficking, or all IRBC risks.
2. *Reporting*: whether the legislation requires a declaration or reporting and whether enterprises have to report on actions already taken or take new actions to comply with the law.
3. *Content*: whether the legislation defines due diligence requirements and whether they are mandatory or voluntary.
4. *Frequency*: the frequency of declaring or reporting.
5. *Monitoring*: whether compliance with the law is monitored and how.
6. *Penalties*: whether the law contains (significant) sanctions and contains options for civil and/or criminal liability.
7. *Accessibility*: whether and where declarations or reports are accessible and for whom.
8. *Applicability*: whether all enterprises in a country have to comply or only certain (groups of) companies.
9. *Extra-territoriality*: whether and how the legislation applies to enterprises operating in foreign jurisdictions.
10. *Measures*: whether there is any support for companies to comply with the legislation and do their due diligence.

Table 1. Strength of IRBC laws on ten criteria<sup>142</sup>

Law	AU MSA	DE DDA	EU NFRD	FR LDV	NL CLDDA	UK MSA	US CTSCA
Criteria							
1. Scope	Medium	Weak	Weak	Weak	Strong	Medium	Weak
2. Reporting	Medium	Medium	Weak	Medium	Medium	Medium	Medium
3. Content	Weak	Strong	Weak	Medium	Strong	Weak	Weak
4. Frequency	Medium	Medium	Weak	Medium	Medium	Medium	Medium
5. Monitoring	Weak	Medium	Weak	Medium	Medium	Weak	Weak
6. Penalties	Weak	Strong	Weak	Medium	Strong	Weak	Medium
7. Accessibility	Strong	Strong	Weak	Strong	Strong	Strong	Strong
8. Applicability	Medium	Medium	Weak	Weak	Strong	Medium	Medium
9. Extra-territoriality	Weak	Weak	Weak	Medium	Strong	Weak	Weak
10. Measures	Weak	Medium	Weak	Weak	Strong	Medium	Weak
Overall	Weak	Medium	Weak	Medium	Strong	Medium	Weak

 = strong  
 = medium  
 = weak

<sup>142</sup> See appendix 1 for a justification of the scoring of the laws.

For this thesis the six laws and the EU directive included in this paragraph have been evaluated along the 10 criteria developed (see table 1). This evaluation has been done on the basis of the text of these laws (for the French law, an English translation was used) and using existing research/evaluations of the laws. Each law has been scored 'strong', 'medium' or 'weak' on the basis of these sources. When scoring on scope, a specific focus on child labour is considered as 'strong' for the purpose of this thesis, since it might mean enterprises will invest more in child labour due diligence than they otherwise would do and thus contribute more to the end of child labour. Of course, one can also argue that the more risks are covered, the stronger the law is. For the other criteria, a score of strong means that the law raises the bar higher than other laws on that criterium, by being more specific or elaborate, imposing stricter demands and obligations, etc.

On the basis of the current laws, the research on these laws and the design of the laws, this thesis submits the laws are a step in the right direction, but are not fully utilized and as of yet do not seem to have impact in the lives of children who work. Government should strengthen their existing laws by including minimum requirements. These minimum requirements can be increased over the years. Monitoring, the use of injunctions and of civil and criminal liability will also strengthen these laws. Most of the laws are not extra-territorial yet and measures to help companies comply with the law are often lacking. All of this leaves room for improvement, but it the countries who have drafted and adopted these laws should also be commended for their groundbreaking efforts in drawing up legislation in a field where no legislation existed ten years ago.

#### 4.2.3. Co-operation

Governments can also work with stakeholders in the business community, trade unions, civil society, general public, across internal government structures, as well as with other governments to create synergies and establish coherence with regard to child labour due diligence.

IRBC Agreements are a new kind of agreement in the Dutch *polder model*. Enterprises (directly or represented by sector organizations), NGOs, unions and the government take part in sector covenant negotiations, which typically last one to two years. In the agreements, enterprises commit to due diligence in accordance with the Guidelines and stipulate how and when they will report and put plans into action. IRBC Agreements have been concluded in the garments and textile, gold, vegetable protein, sustainable forestry, banking, insurance, metals, pensions, natural stone and food sector.<sup>143</sup>

The German Partnership for Sustainable Textiles is a multi-stakeholder initiative with about 150 members from the fields of business, politics and the civil society. Together, they are striving to improve the social and environmental conditions in the global textile production – from the production of raw materials for textile production to the disposal of textiles. The Textiles Partnership was founded in October 2014 in response to the fatal accidents in textile factories in Bangladesh and Pakistan.<sup>144</sup> There are ongoing talks between the Partnership on sustainable textiles and the Dutch IRBC Agreement on textiles for mutual recognition of the efforts of member.

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<sup>143</sup> SER 2019.

<sup>144</sup> PST 2019.

#### 4.2.4. Facilitation

Governments can also facilitate action. Examples are ways in which governments clearly communicate expectations on what constitutes child labour due diligence by providing guidance with respect to specific practices and enabling enterprises to meet those expectations. For example, through research and disseminating information.

One notable aspect of the OECD Guidelines is the non-judicial grievance mechanism which is established via the National Contact Points (NCPs). The NCPs raise awareness of the Guidelines and handle difficulties that may arise relating to the Guidelines and their implementation. The grievance mechanism cases are handled impartially, predictably, equitably and in line with the Guidelines. Moreover, cases can not only be brought by an individual but also an organisation. NCPs produce recommendations which could potentially have impacts regarding the company's reputation. Consequences like this can encourage enterprises to engage in the process.<sup>145</sup>

The three reports of the Bureau of International Labor Affairs (ILAB) on international child labor and forced labor serve as valuable resources for research, advocacy, government action and corporate responsibility. These reports are The Department of Labor's Findings on the Worst Forms of Child Labor, the List of Goods Produced by Child Labor or Forced Labor and the List of Products Produced by Forced or Indentured Child Labor. Each of these reports has a distinct mandate, focus and set of implications, but together, they provide an overview of the current situation of child labor, forced labour and forced child labour around the world.<sup>146</sup>

The Netherlands Enterprise Agency (RVO) is responsible for capacity building of enterprises in regards to (child labour) due diligence.<sup>147</sup> It organizes meetings, training and provides enterprises with information on international responsible business conduct, including fact sheets per country. The agency is also responsible for the Fund Against Child Labour. The fund has been in operation since 2017. CSO's and enterprises which want to execute due-diligence join forces in multi-stakeholder projects which are financed by the fund.<sup>148</sup>

Governments support NGOs like SOMO, Swedwatch, Finnwatch, Winroch International and Global March Against Child Labour who do research on child labour and work with companies to address issues. They also publish reports on child labour risks around the world. UTZ, a certification program, has become one of the 25 strategic development co-operation partners of the Dutch government, which allows them to do more research and pilot-projects which help enterprises with their due diligence. It also helps with tackling issues on the ground.

The UK has published an extensive guidance on how enterprises can and should comply with the Modern Slavery Act.<sup>149</sup>

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<sup>145</sup> OECD 2019.

<sup>146</sup> US 2019.

<sup>147</sup> RVO 2019.

<sup>148</sup> RVO 2019b.

<sup>149</sup> UK 2015b.

A strong law on child labour due diligence and a (more) voluntary approach both need a lot of facilitation by governments to be impactful. This thesis therefore submits governments initiate and expand their facilitating role when it comes to child labour due diligence.

#### 4.2.5. Collaboration

As previously mentioned in paragraph 1, there is a division of labour between private and public actors in the production of the Guidelines common practice.<sup>150</sup> Enterprises, trade unions and civil society organizations work together in the due diligence process. There are different types of collaboration, often focusing on a limited number of steps in the due diligence process. Usually co-operation is most opportune in steps 2 (assess), 3 (resolve), 4 (track) and 6 (remedy).

The steps in the due diligence process are the same for all enterprises. Enterprises in one sector often have the same or similar suppliers, perhaps from the same geographical locations. Others source different materials, but from the same region. They therefore have similar, or at least overlapping, risk assessments.

Working together can help in setting one standard for the entire industry, or at least for the companies involved, and sharing and exchanging information can help lower the cost of the due diligence process. Information, for example on sourcing locations, can also be shared with others, without being directly traceable to one company. Small enterprises often lack the resources to look through their supply chain and into sourcing locations. Collective collaboration can help solve this.

Initiatives can also be binding and non-binding. They are usually voluntary, but binding initiatives can mean the enterprises are forced to bear costs involved if child labour or other harmful business conduct is found. In most initiatives, enterprises cannot enter and exit as and when they wish.

Governments can participate in these processes as a full partner. If governments were to help companies do their due diligence to the full extend of their capacity, that would make it a lot easier for companies to map their supply chain and identify risks. Within various government agencies, there is a lot of information available on the flow of goods. Think about customs at (air)ports and how much easier it would be if a company could find out who supplied the product they bought from a trader. Of course, there are huge challenges when it comes to making this information available. Suppliers generally do not want customers could find out how to bypass them, and that is the main reason it is hard for many companies do map their supply chain. At the same time, there is increasing pressure from all around the globe to make supply chains transparent so that due diligence risks can be identified. That might mean supply chains change, but this thesis submits that price has to be paid. It might also shorten and simplify supply chains and reduce the cost of products. This thesis therefore submits that governments should explore how they can contribute to the due diligence process of enterprises, other than just to push for or finance them.

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<sup>150</sup> Reinecke 2016, 299.

## 5. Conclusion: a path to victory

To eliminate child labour in 2025, governments need to step up their game, fast. The total investment required was estimated by the ILO in 2003 to be \$760 billion.<sup>151</sup> Since the number of children in child labour has gone down and the number of children in education has gone up significantly (although not enough), the total cost at present would be lower. However, there are only 5.5 years remaining until the SDG target deadline, so significant investments need to be made fast. The good news is that the (long term) benefits of this investment will outweigh the costs significantly.<sup>152</sup>

### *Legal standards and regulation*

A successful approach against child labour cannot be successful without decent legal standards and regulation. This thesis submits that countries should review their legislation and if possible increase the minimum age for admission to work, close gaps and reduce exceptions in the legal definition of child labour, expand the list of worst forms and hazardous child labour and effectively enforce these laws through, among other measures, increased inspections. Government should, if needed, also invest in supporting measures, such as reliable age verification, to reduce child labour.

### *Compulsory education*

Protecting children from exploitation is a start, but it is not enough. This thesis submits that significant investments in inclusive and quality education are necessary to provide children who are now out of school with a better future. Government should raise the age for compulsory education age to 16 and lower the direct and indirect costs of education to minimal levels. Compulsory education can only be successful if parents are convinced of the value of education and if compulsory education is enforced, for example through inspections.

### *Income transfer programs*

To guarantee an adequate standard of living for children, governments need to introduce or increase income transfer programs. This thesis submits that unconditional cash transfer programs are the most efficient way to do this, but other programs can meet the same goal.

### *International cooperation*

To eliminate child labour in 2025, countries need to increase international cooperation and more generously support governments, international organizations and NGOs to eliminate child labour. An extra 30 billion dollars a year for education could be enough to make all children go to school. Additional funding for targeted programs by governments and NGOs would be necessary, but much cheaper.

Dutch support for NGOs (€5m) and multi stakeholder initiatives (€7m) against child labour are considered high. This thesis submits that all countries that give Official Development Assistance (ODA) should follow the Dutch example and spend 0.3% of their ODA budget in support of NGO and multi-stakeholder initiatives to eliminate child labour.

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<sup>151</sup> ILO 2003, 4.

<sup>152</sup> ILO 2003, 4.

### *Child labour due diligence*

If an enterprise wants to make an impact on child labour, it has to know if it is causing, contributing to or directly linked to child labour in its supply chain. To find out, an enterprise has to do its due diligence in accordance with the Guidelines and follow the six steps of proper due diligence. Child labour due diligence has specific challenges due to the age of the children involved and because of the definitions and nature of child labour.

Child labour is often hidden. Zero tolerance towards child labour encourages this. A continuous improvement approach, based on meaningful dialogues with all stakeholders involved yields stronger results. When child labour is found, enterprises and families should not be punished with a direct negative economic impact. Rather, a proper analysis of causes of the child labour and effects of possible measures should be made before taking action. Ideally, enterprises contribute to system solutions for child labour and work in co-operation with other stakeholders.

Co-operating can lower cost and increase impact. Multi-stakeholder initiatives can maximize leverage and insulate enterprises from harsh criticism on their business conduct, especially if the membership of the initiative is broad and there is consensus among the members of what can be expected of enterprises.

All the initiatives mentioned in this thesis combined involve little over 1,000 enterprises. This is only a fraction of the tens of millions of enterprises in the world. These best practices may serve as examples to all governments, enterprises and other stakeholders involved.

Governments can do much more than they are doing now. Probably also more than they currently envision they can do. If they would make full use of their options to exemplify, regulate, co-operate, facilitate and collaborate child labour due diligence, governments would have huge impact in how much is invested in child labour due diligence.

This thesis submits that to maximize their impact on child labour due diligence, governments ought to:

1. Draft a National Action Plan on Business and Human Rights.
2. Use an effective mix of voluntary and involuntary approaches to stimulate enterprises to do their due diligence.
3. Codify the minimum requirements for child labour due diligence in a strong law.
4. Help enterprises to comply with the law.
5. Support enterprises which want to go above and beyond the minimum requirements.
6. Enable civil society organizations to play their roles in due diligence processes.

An impactful, strong, child labour due diligence law can be made. The Dutch law can be an example, but it is not a perfect one. This thesis submits that governments should make a law that is strong on all 10 criteria: scope, reporting, content, frequency, monitoring, penalties, accessibility, applicability, extra-territoriality and measures. A globally, or at least regionally, unified approach can also significantly increase the impact of laws and reduce the administrative costs for enterprises to comply with the law. Since several EU-countries already have or are making a due diligence law, this thesis submits that a strong EU directive on (child labour) due diligence would be a logical step.

*Path to victory*

This thesis contains all the building blocks for a path to victory for the elimination of child labour. Countless countries have proven that it is possible. Research shows that it is affordable and that the long term benefits far outweigh the costs. So all that is sustaining child labour in the world is a lack of resolve by governments. Ministers, Members of Parliament, Civil Servants, NGO's, enterprises, international organizations and all others involved need to prioritize the elimination of child labour in the next five years, and then child labour can be eliminated. Let's get to (decent) work!

### Appendix 1: Justification table 1

The table below contains the justification for scoring laws as strong, medium or weak on the 10 criteria listed in table 1.

<b>Criteria</b>		<b>Strong</b>	<b>Medium</b>	<b>Weak</b>
1.	Scope	Child labour only	Modern slavery	All
2.	Reporting	New actions	Some new	Existing
3.	Content	Mandatory	Partly mandatory	Voluntary
4.	Frequency	Annually	Ongoing	Once
5.	Monitoring	Government & others	Government	None
6.	Penalties	Sanctions	Injunction	None
7.	Accessibility	Public	Website	Government
8.	Applicability	All/most	Categories	Few
9.	Extra-territoriality	All/most	Categories	None
10.	Measures	Financial	Guidance	None
	Overall	Max. 4 medium	Max. 4 weak	>4 weak

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