



International **action** against child labour:

Guide to monitoring and complaints procedures

Anti-Slavery International 2002



Contents

| | | |
|-----|--|----|
| 1. | Introduction | 1 |
| 2. | Why bother? Advantages and disadvantages of submitting a case | 2 |
| 3. | International mechanisms: | 5 |
| 3.1 | International Labour Organization | 5 |
| 3.2 | Committee on the Rights of the Child | 6 |
| 3.3 | Working Group on Contemporary Forms of Slavery | 6 |
| 3.4 | Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography | 7 |
| 3.5 | UN Secretary General Special Representative on Children in Armed Conflict | 8 |
| | Case study: Camel jockeys and the International Labour Organisation | 8 |
| 4. | Regional mechanisms: | 12 |
| 4.1 | Africa | 12 |
| 4.2 | Americas | 13 |
| 4.3 | Asia | 14 |
| 4.4 | Europe | 15 |
| | Case study: Street children and the Inter-American Commission and Court of Human Rights | 15 |
| 5. | When to bother: circumstances in which exploitative child labour lends itself to monitoring and complaints procedures | 18 |
| 6. | Style is everything: how to write and present your case | 20 |
| 7. | Endnotes | 21 |
| 8. | Bibliography | 21 |
| 9. | Useful Contacts | 22 |
| 10. | Glossary | 24 |

Thank you...

Anti-Slavery International would like to thank the **Human Rights Project Fund** of the **UK Foreign and Commonwealth Office** for funding this project.

Thanks also to all those at Anti-Slavery and beyond who helped in the writing of this guide, in particular Denise Allen, Jonathan Blagbrough, Cathy Halliday, Pari Hosseinipour, Hernán Vázquez-Reyna and Marie Wernham.

International action against child labour: A Guide to monitoring and complaints procedures

1. Introduction

Those working on child labour at the national, regional and international level now know that there are a variety of international laws that are supposed to help eliminate the economic exploitation of children. However, there is still confusion about how to use those laws, as well as over which can best help protect children's rights.

These laws range from the United Nations (UN) Convention on the Rights of the Child, 1999 (CRC) to certain conventions of the International Labour Organization (ILO) to various regional treaties such as the Inter-American Convention on Human Rights. Many such conventions have an accompanying mechanism to monitor their implementation. Some also have dedicated procedures, such as a court, to assess particular complaints about particular cases.

This guide aims to achieve three things regarding those mechanisms as they relate to child labour:

- a) To inform organisations working on child labour about relevant procedures.
- b) To show organisations that these mechanisms are accessible and useful.
- c) To indicate next steps for interested organisations.

In turn, Anti-Slavery International hopes that this will lead to:

- a) Increased awareness of available UN/ILO and other monitoring and complaints mechanisms on child labour amongst national level NGOs.
- b) Increased use of available mechanisms.
- c) Increased pressure on governments to implement relevant conventions as a result of such submissions.

This guide will indicate that international mechanisms can be a useful tool for civil society organisations in cases where governments are not respecting their international obligations. However, it is not an exhaustive guide giving a list of all options.

We recognise that some monitoring and complaints mechanisms may achieve little for those trying to use them. Plenty of information on such mechanisms is already available (see the Bibliography). Nevertheless, we would like to detail some of the useful mechanisms that we have some experience of.

We hope that organisations reading this guide who have had experience of other mechanisms not covered here might be willing to share them with Anti-Slavery and others. Our contact details are in the contacts section of this document, and we would welcome any such information.

This guide will indicate some of the mechanisms that have produced benefits for Anti-Slavery and other organisations, as well as where to find more information on them.

What do we mean by benefits? We mean advantages of various kinds for the organisation making a submission and those it represents, opening up the options available of where to find justice for exploited children.

Such information may be particularly useful for advocacy officers in an organisation, or those responsible for advocacy strategy.

For example, a non-governmental organisation (NGO) may bring a court case to a regional court on behalf of a child who has been sexually exploited. It may then win the case, and the potential results might be: justice for the victim and his/her family, the award of damages to the victim and family, increased awareness of the issue, increased understanding that crimes cannot be committed with impunity, and a deterrent factor for those committing crimes of sexual exploitation.

We hope that the case studies presented in this guide will give a better picture of the advantages and disadvantages involved in bringing complaints, allowing you to make your own judgements about when to use the different possibilities. We understand that some mechanisms can end up as a lot of rhetoric: a list of recommendations and no action or improvement for the children concerned. However, we also feel that some have achieved a major step forward in the fight for children's rights. Further steps forward can only be taken when civil society can engage with those mechanisms and be convinced of their worth. Prepare to be convinced...



2. Why bother?

Advantages and disadvantages of submitting a complaint

Many NGOs dealing with exploitative child labour issues are not used to writing up the every day exploitation of children as a human rights violation. Why should they spend time and money learning about the system of monitoring and complaints procedures when they feel it does not relate to the situation they face on the ground? Nevertheless, NGOs have become increasingly aware that they need to work for prevention not just cure of violations. Training or rehabilitating child labourers does not prevent other children from entering the worst forms of child labour, and can never reach all the exploited children worldwide.

Increased NGO awareness about prevention has led to activities addressing some of the causes of the worst forms of child labour in order to make a greater impact. These activities include advocacy for better government policy and better law enforcement; and awareness raising regarding the employment of children and their working conditions. These advocacy activities are clearly different from service provision for children, but they are all working for the same end: to prevent recruitment and employment of children in the worst forms of child labour. Submitting information to monitoring and complaints mechanisms forms a part of advocacy activities to combat child labour, and as such can be planned to form part of an advocacy strategy. Submissions can contribute to lobbying, campaigning, awareness raising and public information activities, as the list of advantages on the next page will indicate.

While it is true that there are many disadvantages to submitting complaints, there are also many benefits. Different procedures obviously produce different results, but the advantages and disadvantages presented here are common to all complaints procedures, and can be beneficial for the work of civil society organisations and society at large, as well as more particularly for exploited children and their families.

Advantages

- ✓ Can lead to changes in government policy;
- ✓ Turns spotlight on governments;
- ✓ Raises awareness of child labour issues;
- ✓ Stimulates discussion;
- ✓ Encourages public and media scrutiny;
- ✓ Creates opportunity to build alliances and support;
- ✓ Opportunity to have dialogue with government and others, can include situations where government must respond directly to questions;
- ✓ Creates political and legal pressure for change;
- ✓ Gains recommendations for future action;
- ✓ Can stimulate development of national legislation;
- ✓ Using procedure can be a mobilising force for concerned groups, strengthening cooperation;
- ✓ Can be empowering when international recognition and support are gained;
- ✓ Process of planning, researching, cataloguing and drafting documents can improve capacity and provide learning experience;
- ✓ Helps to establish contact and networks between organisations;
- ✓ Encourages accountability;
- ✓ Encourages a culture of reporting violations;
- ✓ Acts as a lobbying tool;
- ✓ Discourages impunity;
- ✓ Justice.

Disdvantages

- ✗ Strict admissibility requirements (see Glossary) in some cases;
- ✗ Monitoring, complaints and legal procedures can be very lengthy;
- ✗ Risk of harm or mistreatment: collecting and presenting information challenging governments or other powerful bodies can bring risk. Civil society workers can be mistreated by the government or state agents (such as the police) in a variety of ways, and it is necessary to question whether such risks are worthwhile in countries where little protection may be available to human rights activists who challenge power;
- ✗ Lack of enforcement of many mechanisms;
- ✗ Time consuming;
- ✗ Can be expensive;
- ✗ Variable results.

Follow-up

NGO involvement in some monitoring and complaints mechanisms may be limited to simply passing on information, or it may extend to a court case resulting in judgement in the NGO's favour or against it. Whatever the case, the usefulness of such mechanisms is not just about the judgement of the body concerned. It is important to consider that whatever the outcome of your efforts, you can build on the opportunities which using the procedures has created.

Make sure you take time to follow-up on those opportunities by considering how you might:

- ▶ Maintain public and media interest;
- ▶ Build on contacts made during lifespan of procedure;
- ▶ Plan how the government can be held to account and how to help implement changes or recommendations where relevant;
- ▶ Show the state authorities and government how consultation with civil society, change in policy or practice or response to initial civil society concerns can avoid confrontation and potential public disapproval in future;
- ▶ Continue dialogue with state authorities where possible and try to set up systematic forum for discussion of child labour violations, such as a committee of the national legislature to review exploitative child labour and report each year;
- ▶ Ensure that the results of your efforts, such as recommendations for different policy or practice, are disseminated at all levels: across relevant government departments (including local government), state authorities such as police, judiciary and military where relevant, civil society, the media as well as to children and young people;
- ▶ Evaluate the whole process and ensure lessons are learned for future use of monitoring and complaints mechanisms. Remember people always benefit from the learning experiences of others. For example you might want to distribute an evaluation report, present your experience at a seminar or write an article about it for an academic journal or newspaper;
- ▶ Use the results of the procedure to help prevent other similar situations of exploitative child labour in the future;

- ▶ Ask yourself who are the people on the ground who need to know this information, such as union members, social workers or teachers;
- ▶ Assess any implications for your organisation's future priorities and strategies for achieving them;
- ▶ In the long term, highlight cases comparing the state's promises with its actions.

Encouraging a reporting culture

You might even want to consider going through the whole process again - particularly if you are submitting information to a reporting procedure, for example, to the Committee on the Rights of the Child (see page 6). Think also about how to improve ways of gathering information on violations, such as keeping records and case studies. You could build up a group of 'child-friendly journalists', as has been done in Tanzania. A group of journalists is kept updated on child labour issues, meets to discuss their own work and, as a result of greater understanding on the issue report violations and other developments relating to child labour more widely and more regularly.

Establishing telephone hotlines, or drop-in centres where children and adults can report exploitation will also give you hard evidence as well as statistics for future use. It spreads the message to the general population that there is somewhere to go to report abuses.

Though international complaints procedures look at state responsibility for child labour, (see Section 5) they can be used to illustrate that individuals and communities also have

responsibilities, and can report violations and make complaints to help exploited children at local or national level.

For example, a neighbour reporting the case of an exploited child domestic worker to a national telephone child protection hotline is the same procedure, simply at local level. Use the opportunity to show that we are all responsible for children's well-being, and that communities too have a role to play in monitoring what goes on in their area. Community child watch schemes empower local groups and promote local responsibility and action. Members of the community can monitor which children are in school, which are employed as domestics or in a local factory or homework, taking action when those children are being exploited. This can be reported to the local authorities or taken to a local dispute resolving mechanism where possible.

Where there are no independent bodies to monitor children's rights at national level, you may also want to publicise how the lack of an independent body, or of one which exists but does not function effectively, means that complaints must be taken to international level. As we have mentioned, most countries do not want to have their dirty linen washed in front of an international public. If NGOs show how the lack of national mechanisms forced them to go to international level, this can help persuade the state that a national level body is preferable and necessary. Use your international experience to call for an independent institution for children's rights, including the right to be free from exploitation. Such an institution can encourage a reporting culture where it is needed most - at national level.



3. International mechanisms

There is a variety of mechanisms that can be used to address child labour complaints at international level. As mentioned in the introduction, we will limit ourselves here to those with which Anti-Slavery has had some experience, and that we know to yield some benefits. Here we will outline five of those international mechanisms: the International Labour Organisation; the Committee on the Rights of the Child; the Working Group on Contemporary Forms of Slavery; the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography and the UN Secretary General's Special Representative on Children in Armed Conflict. Organisations may also want to consider mechanisms under the International Covenant on Economic, Social and Cultural Rights or under the Convention on the Elimination of All Forms of Discrimination Against Women.

3.1 International Labour Organisation

The International Labour Organisation (ILO) is the UN agency dealing with labour rights. Created in 1919, it has a tripartite structure made up of governments, employers' organisations and workers' organisations and has over 170 member states. Familiarity with the conventions and work of the ILO is essential for organisations on child labour. Many NGOs are already well aware of the ILO's two conventions on child labour - Convention 138 on the Minimum Age for Admission to Employment (1973), and Convention 182 on the Worst Forms of Child Labour (1999). They also know of the ILO's International Programme on the Elimination of Child Labour (IPEC). IPEC began in 1992 and is the ILO's programme of technical assistance on child labour.

However, what NGOs may not be aware of are the supervisory and complaints procedures that the ILO conducts. These are designed to monitor the implementation of ILO Conventions and to ensure that countries fulfil their international labour rights obligations. Clearly it is states who have to report on fulfilment of those obligations, but workers' and employers' organisations can also report. Furthermore, within the monitoring procedures that the ILO uses, there are representatives of each of the ILO's tripartite members.

Some of the procedures can lead to governments having to respond directly to workers' and employer's questions about violations in their country - these debates are then published and can provide a useful lobbying tool. Workers' and employers' organisations are able to submit their own comments on the implementation of ILO standards in their own and other countries.



Access to the ILO for NGOs is not a simple business. However, this should not discourage NGOs from involvement, due to all the potential advantages (listed above in Section 2) that involvement can bring. NGOs can submit information on child labour to the ILO's Committee of Experts when a country has ratified either Convention 138 or 182. Information should be sent through workers' or employers' organisations. Submitting information through a trade union, (either local, national or international), can be the easiest way for many NGOs since often they already work in partnership. Though in theory NGOs can send information directly to the ILO, in reality ILO members may be more receptive to the information if it comes from another ILO constituent. A trade union can submit information on your behalf using data you provide. For an example of this, see the case study below on Anti-Slavery's work on the issue of child camel jockeys with the International Confederation of Free Trade Unions (ICFTU).

For full information on how to submit information to the ILO, which organisations have experience in this field, and a timetable for submissions, you can consult a joint publication of Anti-Slavery International and Minority Rights Group International. Though written for groups representing minorities and indigenous peoples, the handbook is an excellent and clear guide to the ILO for NGOs, and can easily be adapted for those working on child labour. This is available from Anti-Slavery directly or in downloadable format from our website at www.antislavery.org and is entitled *'The International Labour Organisation: A Handbook for Minorities and Indigenous Peoples'*.

3.2 Committee on the Rights of the Child

This Committee monitors the implementation of the Convention on the Rights of the Child. Governments are called before the Committee to present a report on implementation in their country. There is also the opportunity for NGOs to present an alternative report to the Committee, giving their information on the implementation of the Convention and the reality for children. The Committee can question state representatives, and can use the NGO information submitted to highlight areas where the state is failing in its obligations to combat exploitative child labour. In fact, members of the Committee actively encourage NGOs to submit information. The Committee then publishes concluding observations, making recommendations for action to the state.

For further information, there are a number of websites that can explain how to submit information on your country when it is due before the Committee listed in the Useful Contacts section. There is also an organisation that helps to coordinate NGO work with the Committee. This is based in Geneva and is called the NGO Group for the Convention on the Rights of the Child. It has published guidelines on how to submit information to the Committee. For further details, see the Useful Contacts section.

3.3 UN Working Group on Contemporary Forms of Slavery

The UN has a Commission on Human Rights that meets every year to discuss human rights violations. It has a Sub-Commission on the Promotion and Protection of Human Rights, which itself has several working groups. One of these working groups is on contemporary forms of slavery, and it is charged with monitoring the implementation of relevant conventions. As a result, child forced labour, child slavery and child servitude (including bonded child labour and child trafficking) is also covered.

The Working Group on Contemporary Forms of Slavery meets every year in late May/early June, and NGOs can apply for accreditation to attend the meetings. There is also some funding available for NGOs to attend the Working Group's meeting, organised through a voluntary trust fund provided for this purpose.

Details of the Working Group including attendance and funding can be obtained from the UN High Commissioner for Human Rights (www.unhchr.ch). Oral statements are presented to the Working Group, and suggestions for the recommendations that the Working Group issues at the end of its session can be made. Those recommendations are then considered by the Sub-Commission, and may be adopted in the Sub-Commission's Resolution. The Sub-Commission also submits draft resolutions and draft decisions to the Commission based on its own resolutions.

The Working Group is particularly useful for raising awareness of an issue, and for distributing information since the Working Group's reports are picked up by international organisations and other UN agencies such as the ILO.

For example, if a carpet manufacturer in Nepal uses child bonded labourers, even if the state is not employing bonded labourers in its own civil service, it has a duty to prevent companies under its jurisdiction from using bonded labour, and to enforce its own legislation making bonded labour illegal. In these circumstances, a complaint could be made against the government regarding its failure to enact or implement legislation outlawing bonded labour and to provide viable employment alternatives and/or education to former child bonded labourers.

In 1997, before Nepal had signed or enacted any specific legislation on bonded labour, Anti-Slavery made a complaint regarding bonded labour of adults and children in Nepal to the UN Working Group on Contemporary Forms of Slavery, calling on the government to:

- ▶ Ratify the International Labour Organisation's Convention No. 29 Concerning Forced Labour (1930).
- ▶ Introduce a law banning all slavery-like practices as an essential first step toward the progressive elimination of the problem.
- ▶ Make land and resources available to provide for the rehabilitation of the victims of slavery enabling them to use their existing skills and knowledge to support themselves and their families.
- ▶ Introduce a minimum wage for agricultural labourers.

- ▶ Adopt new procedures for the proper enforcement of anti-caste discrimination laws, including the establishment of a special commission to promote equality between castes and ethnic groups in Nepal.
- ▶ Introduce measures to help the rural poor find alternative ways of paying for medical facilities.

Though the situation for bonded labourers of all ages in Nepal is far from resolved, Nepal has now ratified ILO Convention 29 (January 2002), and has passed domestic legislation banning bonded labour, taking the first steps in future government action and collaboration with the ILO to address the situation. Clearly these changes are not the sole result of complaints to the Working Group. However, repeated submissions like the one above will have helped to keep up the pressure on the Nepalese government.

3.4 Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography

Under the Commission on Human Rights, there exist a number of Special Rapporteurs to the Commission. They are either thematically based (for example on Extrajudicial, Summary and Arbitrary Executions) or country based, for example there is a Special Rapporteur on the Sudan). The Commission may appoint a Special Rapporteur to investigate violations on any theme or in any part of the world, and each makes an annual report to the Commission. A full list of the Special Rapporteurs can be obtained from the UN High Commission on Human Rights website at: www.unhchr.ch.

There is one Special Rapporteur of particular interest to NGOs working on child labour, the Special Rapporteur on the sale of children, child prostitution and child pornography. The Commission has asked this Rapporteur to seek and receive credible and reliable information from governments, UN agencies, specialised agencies, inter-governmental and non-governmental organisations. As a result, NGOs and even individuals can send information to the rapporteur on the particular areas within his or her mandate. This Special Rapporteur takes action in the following cases:

- ▶ Sale of children;
- ▶ Child prostitution;

- ▶ Child pornography;
- ▶ Sexual abuse of children;
- ▶ Trafficking of children.

As a result of information received, the Special Rapporteur can then send this information to governments, asking for their comments and details of any action they have taken with regard to the violations mentioned. The Special Rapporteur can also visit countries on fact-finding missions, with the agreement of the government concerned. For example, in 2002 the Special Rapporteur will visit Bolivia. The Special Rapporteur's report for 2002 included information and the government response to allegations of the kidnap of a young girl in Sri Lanka for forced domestic work, and of information and government response to the intimidation of NGO staff working for a street children's organisation in Guatemala - see the case study of the Inter-American Court of Human Rights on page 13.

The Special Rapporteur's work is designed to draw the attention of governments concerned to incidents, situations and conditions that require either action or restraint on the part of the state. The Special Rapporteur will then include in his or her report any response on the part of the government and any action it has taken, as well as recommendations from the Special Rapporteur with regard to those cases.

In 2002, the new Special Rapporteur, a journalist from Uruguay, Mr Juan Miguel Petit, stated in his report that he was particularly keen to work with civil society and others in order to intensify efforts to prevent the sale and exploitation of children, and to develop mechanisms to prevent, detect, denounce and prosecute such abuses. He also stated that he hopes to develop a website in order to make information on his work and how to report violations more easily accessible. Such a clear willingness to work with NGOs should not go unheeded.

In order to make it easy to provide information, there is simply a form to fill out where NGOs can provide details of violations and send them to the Special Rapporteur's office. More details of the form, the mandate of the Special Rapporteur and the definitions of terms above can be obtained from the Special Rapporteur's Office, details in the Useful Contacts section, as well as at the web site address above.

3.5 UN Secretary General's Special Representative on Children in Armed Conflict

Special Representatives of the Secretary General report directly to the Secretary General and therefore to the Security Council. They are usually appointed in response to a very serious human rights situation. For child labour activists, the Special Representative of most relevance is the Special Representative on Children in Armed Conflict.

The Special Representative (Mr Olara Otunnu since 1997) describes his own job in the following words:

- ▶ To promote the protection, rights and welfare of children at every phase of conflict: preventively before conflict erupts, in the midst of conflict, and in post-conflict situations;
- ▶ To build greater awareness of the problem and mobilise the international community for action;
- ▶ To promote the application of both international norms and traditional local values that provide for the protection of children in times of conflict;
- ▶ To undertake political and humanitarian diplomacy and propose concrete initiatives to protect children in the midst of war.

What has the Special Representative's work achieved since 1997? The Secretary General's first report to the Security Council in 2000 brought a broad range of issues to the awareness of the Security Council, and named 55 particular recommendations to address those issues. The second report in 2001 also indicated measures that states could take to address those issues. It kept the Security Council informed of progress in the situation for these children, indicated how Security Council resolutions on the subject were being implemented, and highlighted important actions that were still needed to make further progress. These reports can be useful sources of information for NGOs, and the recommendations for states within them can be used to lobby governments to take action. All information on the Special Representative's work, including these reports, can be found on the website of his office, details below in the Useful Contacts Section, (see page 22.)

NGOs have worked with the Special Representative since the post was created, and continue to send information and cooperate with the Special Representative during his country visits. Information on rights violations relating to the Special Representative's mandate should be sent to his office (listed in the Useful Contacts Section), bearing in mind the suggestions for submission of information listed in Section 4 on how to present complaints. The Office of the Special Representative even solicits information from NGOs to ensure that reports to the Security Council reflect the work of NGOs and the role that they play in monitoring, information gathering and reporting of findings in work with children in situations of armed conflict.

Case study: Camel jockeys and the International Labour Organisation

Why did Anti-Slavery want to raise the issue of camel jockeys at the ILO?

Anti-Slavery had been regularly raising the issue of very young children being trafficked to the United Arab Emirates (UAE) from South Asia and Africa to be used as camel jockeys since the early 1990s. During the 1990s awareness of the problem of not just exploitative child labour but child labour in its worst forms had been increasing. The Global March against Child Labour had brought together unions, NGOs and other members of civil society in an international movement against child labour. This had culminated in 1999 in the unanimous adoption of ILO Convention 182 on the Worst Forms of Child Labour, following in the footsteps of ILO Convention 138. Taking advantage of this increased awareness of the issue, including at the ILO, in the summer of 2000 Anti-Slavery decided to submit information on the exploitation suffered by child camel jockeys to the ILO.

In the case of child camel jockeys, it is particularly difficult to engage in a constructive dialogue with the Gulf states responsible due to the lack of NGOs in the region, and the involvement of ruling powers in this particular form of exploitation. As a result, a forum for dialogue where a government is under pressure to respond is especially useful. Previously, Anti-Slavery had written directly to the rulers of the UAE and to their embassies in London, only to meet either with no response or with a total denial that any exploitation of child camel jockeys was occurring.



We wanted to raise the issue of child camel jockeys in a new forum to increase pressure on the government of the UAE and to ensure that the failure of the UAE to respect the obligations of ILO member states be taken up at the ILO. We were hoping to obtain the sanction of ILO members on the UAE, and a call from the ILO to the UAE government to make efforts to change the situation. Any criticisms made by ILO members could then be used by Anti-Slavery and others, especially since such criticism would carry more weight coming from an international body.

What information did Anti-Slavery use?

The information presented was obtained from partners in sending countries, as well as from anecdotal evidence, media reports, research reports and information from the police and immigration authorities, including the following:

- ▶ Case studies of several children trafficked in the period 1999 - 2000;
- ▶ Details of the consequences of the trafficking for these children;
- ▶ Clear description of the particular rights which this practice violates, such as the right to food, health and family life, as well as the gross exploitation that such work entails, including in relation to ILO Conventions;
- ▶ Reference was also made to the US Department of State Reports on the United Arab Emirates for the years 1998 - 2000, and to the 1999 report of the UN Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography which had condemned the practice.

How did we submit this information to the ILO?

This information was submitted to the International Confederation of Free Trade Unions (ICFTU) to be passed on to the ILO. The ICFTU is a member of the ILO, and has long had a good relationship with Anti-Slavery. As a result, information is regularly exchanged between the two. In this case, Anti-Slavery passed the information to the relevant department of the ICFTU in September 2000, and asked that the evidence be presented to the ILO.

The ICFTU submitted the information to the ILO in October 2000, ready for presentation to the ILO's Committee of Experts meeting in November 2000. The Committee of Experts is the ILO's main body responsible for examining reports of member states on ratified conventions, (in this example we will not consider mechanisms for un-ratified conventions) which it does annually at a meeting in Geneva in November.

For the information to be considered by the ILO, it was important in this case that:

- ▶ Specific reference be made to Convention 138 on the Minimum Age for Admission to Employment, stating accurately and clearly how and in what way the member state had failed to implement the provisions of the Convention.
- ▶ Convention 138 was used rather than both 138 and 182, since the United Arab Emirates had not yet ratified Convention 182 at that stage.

The Committee of Experts then produces a report, covering each convention in numerical order. This report is published in March of the following year. Selected information from the report that the Committee of Experts produces each year is then discussed at the International Labour Conference, held every June. At the Conference, this information reaches a much wider audience.

The Committee of Experts Observation

The ILO forwarded a copy of this information to the UAE in September 2000 so that it had the opportunity to respond to the comment. However, by November 2000, the ILO had only received an initial reply to the comment, not an actual response from the Government regarding the cases of camel jockeys mentioned.

The Committee of Experts thus had Anti-Slavery's information, and an initial reply from the UAE Government to consider. After looking at this information, the Committee did indeed make an observation with regard to the UAE. The comments made were as follows:

- ▶ The UAE Government had specified a minimum age of 15 for admission to employment when it had ratified Convention 138. New evidence clearly indicated that the rules were being blatantly ignored.
- ▶ The Committee considered that the employment of children as camel jockeys constitutes dangerous work within the meaning of Convention 138.
- ▶ The Committee requested that the Government take all necessary measures to ensure that no child under 18 is employed as a camel jockey.

In this way, the Committee indicated the information submitted had indeed been relevant for the implementation of Convention 138, and that the Committee's interpretation of hazardous work included the work of child camel jockeys. Since observations are used to indicate long standing problems or serious failures to implement ILO conventions, the comments are not taken lightly by governments. Since they are published, they are also a form of public censure.

From the Committee of Experts to the International Labour Conference - June 2001

These observations of the Committee of Experts then pass to the next stage of ILO monitoring. Every year in June, the ILO holds the International Labour Conference (ILC), which acts as its general assembly where members come together to take decisions. During the meeting, another Committee comes together to examine general issues concerning the application of ILO conventions, amongst them, the report of the Committee of Experts. This Committee is called The Conference Committee on the Application of Standards (the Applications Committee).

Each year, the Applications Committee decides on a number of country situations that need to be reviewed in depth. In June 2001, the Applications Committee decided to look at the situation in the UAE, and invited the Government of the UAE to appear before the Applications Committee to respond to the criticism it had received. For Anti-Slavery, the fact that the Applications Committee chose to look at the UAE was a sign that the ILO was taking this information seriously. It was also an opportunity to gauge the concern of the UAE Government. The report of the Applications Committee is published following the ILC in June.

How did the UAE Government respond?

The Government representative claimed that the Committee of Experts observation referred to isolated and unsubstantiated events that took place outside the UAE. He added that the comments made by the Committee of Experts did not relate to law or practice in the UAE nor did they relate to the application of Convention 138. In other words, a total denial of any problem regarding camel jockeys. However, a number of other ILO members spoke up about the issue. They cited Anti-Slavery's cases, mentioning the organisation by name, and one worker member concluded that these cases also symbolized some of the worst features of the practice of forced labour.¹

The conclusions of the Applications Committee

The discussion was then summarised into conclusions and recommendations, which were adopted by the Committee. Despite the UAE Government's denial of any problem, the Applications Committee expressed its profound concern over the situation of young camel jockeys, and concluded that:

- ▶ The use of children as camel jockeys and the diets that they were subjected to were dangerous activities that might seriously damage their health;
- ▶ That the children used as camel jockeys had been trafficked into the country illegally for that specific purpose;
- ▶ That measures should be taken to prevent trafficking in children to the UAE and their employment in such dangerous activity.

Follow-up in 2001/2002

Anti-Slavery proceeded to go through precisely the same procedure in 2001, submitting information to the Committee of Experts' November 2001 meeting which was again picked up by the Applications Committee and discussed in June 2002. Again, employer and worker ILO members criticised the Government of the UAE, and this time, one member suggested that the Applications Committee should consider a 'direct contacts' mission² to the UAE. This year, 2002, the Government of the UAE stated that its Ministry of Labour was proposing to amend sections of the labour law to prohibit hazardous work for those under 18, and that the police would be taking legal action against those trafficking children. Whether these measures will be enacted and implemented remains to be seen, but it illustrates how the UAE Government has been forced to respond to its critics, and how the ILO can proceed, using other monitoring procedures should no changes take place. Anti-Slavery will continue to submit information in this way, and to push for the ILO to step up its pressure on the UAE using all available mechanisms.

What did Anti-Slavery achieve by this procedure?

There are several effects of Anti-Slavery using this procedure:

- ▶ Placed a spotlight on the UAE Government's failure to apply Convention 138, and raised issues with regard to Convention 182 and Convention 29 on Forced Labour;
- ▶ Has illustrated to ILO constituents that monitoring procedures can demand changes to domestic legislation relating to child labour where it is not in harmony with ratified international legislation;
- ▶ Raised awareness amongst ILO members and ILO staff about the plight of child camel jockeys;
- ▶ The UAE Government had to respond publicly to criticisms from both national and international organisations;
- ▶ Enabled Anti-Slavery to make contacts with organisations in originating countries to further our advocacy on the subject;
- ▶ Enabled Anti-Slavery to use the ILO's comments in submitting information on the UAE to the Committee on the Rights of the Child for its assessment of the UAE in 2002;
- ▶ Issue now taken more seriously and picked up more frequently by the media;
- ▶ Issue of camel jockeys included in the ILO's Global Report on Child Labour 2002;
- ▶ Has encouraged Anti-Slavery to step up its work on camel jockeys and build a network of organisations working on the issue in order to carry out more public campaigning activity in the future.

How much time, effort and money did this take?

The case study above runs over a period of almost two years - August 2000 - June 2002. Therefore the work needs to be built into the timetable of the organisation, and the organisation must be aware that the fruits of its labours may be years in coming. However, the work itself is neither time-consuming nor expensive. Collating information for submission to a union or direct to the ILO involves writing one short document putting together information from the variety of sources mentioned above in the manner mentioned above, and then ensuring it reaches the ILO and the Committee by following up contacts.

Knowledge of ILO procedures is required, and having an established relationship both with union partners and with ILO members is helpful, but both of these can be adequately handled by an organisation's advocacy staff, and many national level NGOs have such relationships and knowledge already. This guide also indicates where such information can be found in the Useful Contacts and Bibliography sections. Since the Applications Committee can only look at some of the violations covered in the Committee of Experts Report, it is important to lobby for your comments to be taken up by the Applications Committee, and to follow the progress of your case by acquiring the relevant reports of the two Committees' meetings. Details of how to acquire all of these reports can be found either on the ILO website or in the Anti-Slavery Handbook on the ILO mentioned above and in the Bibliography.

The benefits to Anti-Slavery of this work have been good - as detailed above - and the issue will continue to be a priority for the organisation in its campaigning activities, making use of the ILO's contribution to build up support for our work in this area.

4. Regional mechanisms

Clearly regional mechanisms also have a large role to play in calling governments to account on child labour. Within the scope of this brochure we do not have the space to address the full variety of different regional mechanisms available, and their potential usefulness for NGOs. However, we would like to draw your attention to the fact that there are regional mechanisms available that in some instances may be more useful than international mechanisms, (see Section 8.2).

Many monitoring and complaints procedures at regional level are still evolving, some more rapidly than their international counterparts since they have only recently been established. Here we will list some of those mechanisms and give details of where to obtain more information on them. As mentioned in the introduction, if you have experience of using regional mechanisms that you would be willing to share with other NGOs, please let us know and we can consider how best to share your experiences.

4.1 Africa

For the African continent there are two basic pieces of human rights law which are relevant regarding child labour: The African Charter on Human and People's Rights, 1981, which includes an article (18,3) on the protection of children's rights, and the African Charter on the Rights and Welfare of the Child, 1990 which entered into force fairly recently in 1999. The latter has articles on sexual exploitation and child soldiers, as well as one on child labour, Article 15, which is as follows:

1. Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development.
2. States Parties to the present Charter take all appropriate legislative and administrative measures to ensure the full implementation of this Article, which covers both the formal and informal sectors of employment and having regard to the relevant provisions of the International Labour Organization's instruments relating to children, States Parties shall in particular:
 - (a) Provide through legislation, minimum wages for admission to every employment;
 - (b) Provide for appropriate regulation of hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of this Article;
 - (d) Promote the dissemination of information on the hazards of child labour to all sectors of the community.

The African Charter on the Rights and Welfare of the Child has a Committee of Experts, established in March 2002, to monitor the implementation of the Charter (similar to the Committee on the Rights of the Child), so in future NGOs will be able to report to that Committee. African and other NGOs have now formed a group in order to promote the African Charter and other issues relating to children in Africa called the Inter-Agency Thematic Group. Further details of the Committee and of the Inter-Agency Thematic Group can be obtained from the African Network for Prevention and Protection Against Child Abuse and Neglect (ANPPCAN) whose details are in the Useful Contacts section.

In common with international human rights instruments, there is a commission charged both with the promotion and protection of human and peoples' rights in Africa, and with the interpretation of the African Charter. This is the African Commission on Human and Peoples' Rights, based in the Gambia, see contact details in the Useful Contacts section. In July 2002, the African Commission ruled in favour of the Ogoni people in a case brought against the Nigerian Government by a Lagos-based NGO Social and Economic Rights Actions Centre (SERAC). The case illustrates that the African Commission can successfully address economic, social and cultural rights and call governments to account for their behaviour. The case is also a sign that other NGOs can bring forward cases on child labour.

There is a Protocol to the African Charter, signed in 1998, setting up an African Court on Human and Peoples' Rights. Such a court would provide excellent opportunities for NGOs to call their governments to account over where the state has failed to take action on child labour, in the way that our case study on the Inter-American Court demonstrates on street children. However, the Protocol has not yet received enough ratifications to enter into force, and does not look likely to be established in the near future. Still, it is important to note that a meeting of the African Commission in May 2002 included the adoption of a resolution calling on all member states to ratify the Protocol to enable the African Court to be established. Such a resolution demonstrates that the Commission is actively working to encourage member states to act in order to establish the Court. NGOs can use this resolution as a tool to promote ratification of the Protocol.

Finally, the establishment of the African Union (AU) and the momentum it will generate across Africa provide NGOs with an advocacy opportunity, targeting the new AU with demands for more action on child labour and other human rights issues, calling on governments to keep to their commitments.



4.2 Americas

For the Americas, the umbrella body of the Organisation of American States (OAS) has various human rights instruments, as well as an Inter-American Commission on Human Rights and an Inter-American Court on Human Rights. The Commission is charged with promoting and protecting human rights and acting as a consultative organ to the OAS on human rights issues.

Various elements of the instruments of the Inter-American human rights system are relevant for child labour. For example, the basic document of the American Declaration on the Rights and Duties of Man, 1948, includes provisions on the special protection of children (Article VII) and the right to education (Article XII). Furthermore, the Inter-American Convention on Human Rights, 1969 has an article concerning freedom from slavery and servitude (Article 6), and its San Salvador Protocol, 1988 also has an article on child labour, Article 7(f).

The Inter-American Commission on Human Rights

The Commission is one of the main bodies of the OAS and is responsible for impartially promoting the observance and defence of human rights in the Americas. The Commission is authorized to examine complaints or petitions regarding specific cases of human rights violations. It receives thousands of petitions that have resulted in thousands of cases being processed. In order to promote and protect human rights in line with its duties, the Commission investigates and decides on complaints of alleged human rights violations, conducts on-site visits, prepares draft human rights treaties and declarations, and issues reports on the human rights situation in the region's countries.

The Commission has an excellent reputation, and is at the forefront of the struggle against the human rights abuses that the region has seen in the past and at present. Though it has focused more evidently on civil and political

rights violations, this should not prevent organisations working on child labour from informing themselves of the potential of the Commission (and the Court where appropriate) to address their complaints concerning child labour in the region.

For NGOs, the important point is that any person, group of persons or non-governmental organization may present a 'petition' to the Commission alleging violations of the rights protected in the American Convention and/or the American Declaration. (A petition is the submission of the documents about the human rights violations, and is the formal request for a case to be taken up). Any case presented must allege that one of the member states of the OAS is responsible for the human rights violation at issue.

In common with the information on when to bother presenting a complaint, the Commission can study petitions alleging that state agents committed human rights violations. However, the Commission can also process cases where it is alleged that a state failed to act to prevent a human rights violation, or failed to carry out proper follow-up after a violation, including the investigation and sanction of those responsible as well as the payment of compensation to the victim. For example, if a state was informed about a company keeping children in forced or bonded labour, but took no action against the offender, then the state has neglected its duties.

Once a complaint has been made to the Commission, the Commission decides on the admissibility of the case (see Glossary). Where a case is admissible, it will establish the facts of the case and then seek a friendly settlement with the relevant state. If a settlement cannot be reached, then it will issue a report with recommendations. If the state does not comply with those recommendations, then the Commission can either prepare a second report or refer the case to the Court.

For further details of how to make a complaint, see both the case study below and the Commission's contact details in Section 9.

The Inter-American Court on Human Rights.

The Court is an independent judicial institution whose purpose is the application and interpretation of the American Convention on Human Rights.

The Court only has authority over the states that have officially accepted that authority ('jurisdiction').

To find out if your country has done so, you can consult the web site of the OAS. The OAS and the Commission also have more information about how the Court operates.

The Inter-American Court's judgements are well respected, and it is perceived to have 'teeth' since it can issue certain orders to member states, such as a demand for compensation. Recent changes to the Court's operation also mean that alleged victims or those representing them can participate directly in the Court's proceedings. As a result, if your case should eventually be before the Court, this can be an excellent learning and awareness-raising process for those involved, and provide a good opportunity to experience all the advantages of such complaints procedures outlined in Section 2.

For those who wish to investigate the option of making a complaint to the Commission, there is a specific NGO that helps other NGOs to bring individual petitions before the Commission and in the submission of cases before the Court. Called the Center for Justice and International Law (CEJIL), it acts as a representative of victims and as legal adviser to the Commission in practically all the cases pending before the Court. However, note that CEJIL selects representative cases that exemplify a systemic pattern of abuses and whose resolution would have a broad impact on how human rights law is implemented. See Section 9 for further details.

4.3 Asia

In Asia there are no regional instruments or systems for human rights protection. There is a forum of national human rights institutions, called the Asia Pacific Forum for National Human Rights Institutions, to encourage dialogue, cooperation and mutual support between national institutions. Again, contact details for the Forum can be found in Chapter 8. There is also platform for cooperation between South Asian countries, the South Asian Association for Regional Cooperation (SAARC) whose members are Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. SAARC has a Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002, however, the Convention has no implementation or enforcement procedures.

4.4 Europe

In Europe the most comprehensive regional instrument on economic, social and cultural rights is the European Social Charter, created by the Council of Europe. The Council of Europe is an intergovernmental organisation created after the Second World War, aiming to bring peace and uphold human rights in Europe. Not to be confused with the European Union, the Council of Europe is open to all states which agree to guarantee democracy, human rights and the rule of law.

The European Social Charter was adopted in 1961 and revised in 1996, and includes a very comprehensive article on the rights of children and young people to protection with regard to work, Article 7. The Charter has a body called the European Committee of Social Rights to monitor its implementation. This Committee examines reports by those who are party to the Charter, and may put forward a situation to the next step of supervisory procedures, which can lead to a recommendation to states parties from the Committee of Ministers (the decision making body of the Council of Europe).

As well as this reporting procedure for states party to the Charter, there is now also a complaints procedure. This is known as the collective complaints procedure, and is the result of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints. Under this protocol, organisations of employers, unions and certain international NGOs can submit collective complaints against member states. Complaints must be in writing; must relate to a provision of the Charter accepted by the state party concerned, and must indicate how the state is violating the Charter.

This procedure was in fact used by the International Commission of Jurists against Portugal in 1998. Based on a report by the Committee of Experts, the Council of Europe found that Portugal was in violation of Article 7 (1) of the Social Charter, and asked the Portuguese Government to continue the efforts it was already undertaking to combat child labour. This had the effect of raising awareness of the problem of child labour in Europe and of the need for European governments to take action. The Portuguese Government had already taken steps to address the issue, introducing a National Plan to Eliminate the Exploitation of child labour, and a minimum wage.

Nevertheless, this maintained pressure on the Portuguese Government and indicated to others in Europe that the collective complaints mechanism could function and could put governments in the spotlight. For further information on the Council of Europe and the collective complaints procedure, see the Useful Contacts Section.

Case study: Street children and the Inter-American Commission and Court on Human Rights

This case study looks at the presentation of a case to the Inter-American Commission, and then Court, of Human Rights by a Guatemala-based NGO, Casa Alianza. Though the case does not deal with child labour, it indicates the experiences of one NGO in trying to get justice for children whose rights have been violated at regional level. As such, there are many lessons for other NGOs who might want to bring a case on child labour.

In September 1994, the non-governmental organization Casa Alianza and the Center for Justice and International Law (CEJIL) decided to present the case of the murder of five boys, three of whom were under 18, to the Inter-American Commission on Human Rights in Washington DC. The petition was based on the death of five youths and the alleged denial of justice at national level.

A case was opened in September 1994, on the basis of the following facts:

- ▶ In June 1990, four youths, two of them under 18, were abducted by National Police officers in Guatemala City. The youngsters were tortured and subsequently killed. Their bodies were left in woods and only found by chance, several days later. They had had their eyes gouged out, their ears and tongues severed and had been shot in the head. A fifth youth who was a friend of the other four, also a minor, was murdered nine days later through shots in the back by the same police officers.
- ▶ Casa Alianza brought procedures to seek justice for the youths' deaths in Guatemalan courts.
- ▶ Courts were reluctant to pursue the matter and severe irregularities occurred in the judicial proceedings.

The organization pursued the case all the way to the Supreme Court. However, the two police officers involved were acquitted owing to 'lack of evidence'.

- ▶ No in depth inquiries took place and crucial evidence was barred.
- ▶ Upon the deaths of the youths and throughout the judicial proceedings, their families were not kept informed.

What happened after the case was opened?

Once the case was opened at the Commission, there followed an exchange of information and reports between those bringing the case, the Commission and the State of Guatemala.

- ▶ In October 1996, the Commission declared the case admissible.
- ▶ The Commission made several recommendations to Guatemala about the case, and in relation to the situation of street children in general.
- ▶ A report and recommendations on the case was sent to Guatemala. The State of Guatemala took no action within the time-frame set out to implement the recommendations of the report, and neither party was willing to negotiate a settlement.
- ▶ In January 1997, the Commission agreed that the State of Guatemala had violated the boys' human rights and the case was submitted to the Inter-American Court of Human Rights. (Guatemala had accepted the jurisdiction of the Court in 1987).

How did Casa Alianza and CEJIL present the information to the Commission and then the Court?

Various types of information were submitted, including:

- ▶ Copies of files of the national level trials, including statements and court reports.
- ▶ Information on the condition of street children in general in the period in which the initial crimes took place, and over the period of all the judicial proceedings, including a copy of a report to the UN Committee against Torture and reports on the subject by other NGOs such as Amnesty International.
- ▶ Testimonial evidence from families, NGO personnel, police officers.
- ▶ Forensic evidence.

What happened once the case reached the Court?

In January 1999 the case was heard publicly by the Court. In December 1999, the Court ruled that the State of Guatemala had violated numerous Articles of the American Convention of Human Rights (and Convention to Prevent and Punish Torture). Of particular significance was the fact that the Court understood Article 19 of the American Convention (the article covering the rights of the child) to incorporate the principles of the whole of the UN Convention on the Rights of the Child, therefore including Article 32 of the CRC on child labour). This effectively means that the Inter-American system can potentially offer direct redress for violations of the UN CRC.

What was the follow-up to the 'guilty' verdict?

- ▶ The Court then held separate hearings on compensation, and in December 2000 ordered the state of Guatemala to pay compensation of US \$500,000 to the five families of the victims before the end of November 2001.
- ▶ Once that deadline had passed, and Guatemala had not paid the damages, Casa Alianza launched an international urgent action asking NGOs around the world to write to the Guatemalan government requesting them to pay the compensation.
- ▶ In December 2001, the President of the Guatemalan Government's human rights office presented the five families with cheques totalling the \$500,000, and paid the \$30,000 legal costs of Casa Alianza and CEJIL.

Guatemala was also ordered to:

- ▶ Name a school after the five victims.
- ▶ Allow the exhumation of the mortal remains of Henry Contreras who was buried as "XX" in a public cemetery, allowing them to be buried in the Casa Alianza cemetery .
- ▶ Ensure that Guatemalan law reflects Article 19 (Rights of the Child) of the American Convention on Human Rights.

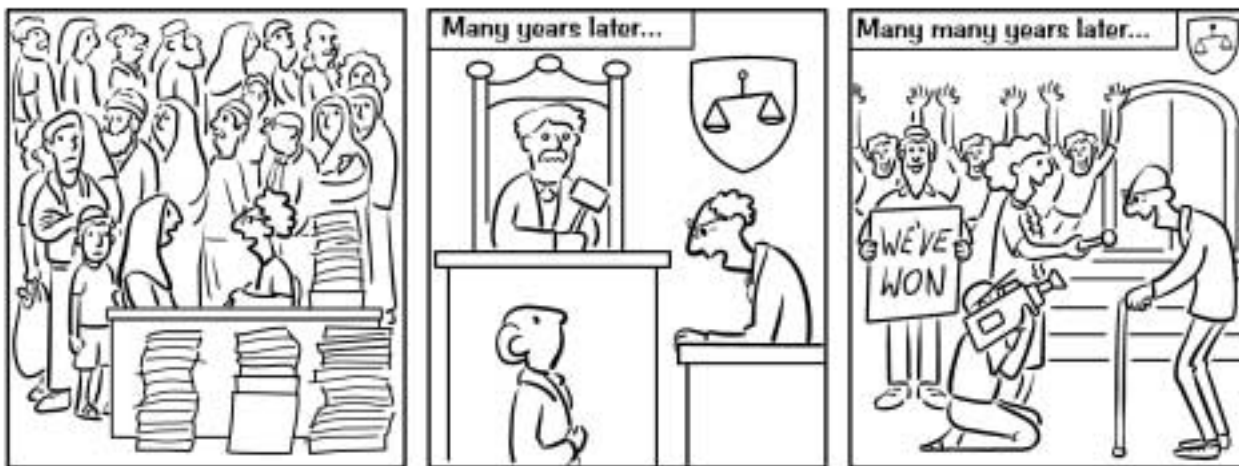
What did Casa Alianza achieve by using this process?

When Casa Alianza first began the whole process, they did not know exactly what it would all entail. Now that the case is over, they feel the case was well worth the effort and has achieved a great deal including:

- ▶ Justice for the victims.
- ▶ Reduced violence against street children by showing that justice can be done and that those violating human rights of children cannot continue to act with impunity.
- ▶ Raised awareness of the situation of street children and the abuses they suffer at a very high level, and across the world.
- ▶ By holding the state responsible, they have provided an incentive for the state to prevent its agents from carrying out such abuses. Before the case, the state let its officers murder children since there was no reason to stop them doing so.
- ▶ Increased dialogue with Government and increased willingness to reach a settlement: following the case, Guatemala entered into friendly settlement negotiations in relation to various cases pending before the Commission and indicated its interest in pursuing a permanent dialogue with NGOs involved in cases before the Commission.
- ▶ A learning process with regard to collecting evidence, making sure that certain judicial steps are taken and pushing the authorities to do their duty.
- ▶ NGOs have been encouraged to take cases to judicial proceedings, and to show that such proceedings can be useful. Casa Alianza is now considering doing more with the United Nations mechanisms, and potentially even with the new International Criminal Court. It has also learned the need to gather evidence in order to illustrate inaction at national level, since this is necessary for the case to be admissible at international level.
- ▶ The State itself now acknowledges the existence of problems related to delays in the judicial system, and has begun some initiatives to address this, such as draft legislation, increased numbers of courts and increased salaries for judges. This is especially important since it addresses the causes of a poor judiciary, increasing the chances of sustainable improvements in the system.
- ▶ Increased trust of the population in the judicial system, which in turn encourages people to come forward and speak out.
- ▶ Increased understanding of the role of the media, both to raise awareness and to distribute information thus building pressure on the state.

What difficulties did the NGOs bringing the case encounter?

Clearly the case involved an enormous amount of work and money on the part of all the participating NGOs- the case started at domestic level in 1990, and the ruling of the Court was in 1999. This was then followed by the compensation hearings and payments, finally made in December 2001. So all in all, the case took over 10 years. The director of Casa Alianza also estimates that the total costs to the organisation were around US \$100,000.



Several other difficulties were also encountered:

- ▶ Killing of witnesses and death threats, as a result of which it was difficult to get witness testimonies, not to mention a frightening experience for NGO personnel involved.
- ▶ A whole host of problems in the domestic judicial procedure, such as crucial evidence found inadmissible that could have led to the conviction of the defendants.
- ▶ Delaying tactics on the part of the judiciary and the national police force.
- ▶ Need for the NGO itself to gather credible evidence owing to a lack of willingness to do so by the state authorities.
- ▶ Prolonged procedures at international level.

In conclusion...

As this case study illustrates, the obstacles to justice are often huge and apparently insuperable. Quite apart from the death threats, the time and money involved here would prevent most NGOs from bringing similar proceedings. Nevertheless, the changes brought about by this case are many and far-reaching. They benefit not just the families of the victims, but all street children in Guatemala and worldwide, making changes to the culture of impunity that existed prior to the Court's ruling. They show that it is possible to stand up for children and their protection from exploitation and abuse. As the role of CEJIL here demonstrates, there are also support systems in place to NGOs wishing to bring such a case. The moral of the story is to go forth and do likewise...

5. When to bother: circumstances in which exploitative child labour lends itself to monitoring and complaints mechanisms

(a) Where state responsibility has been established.

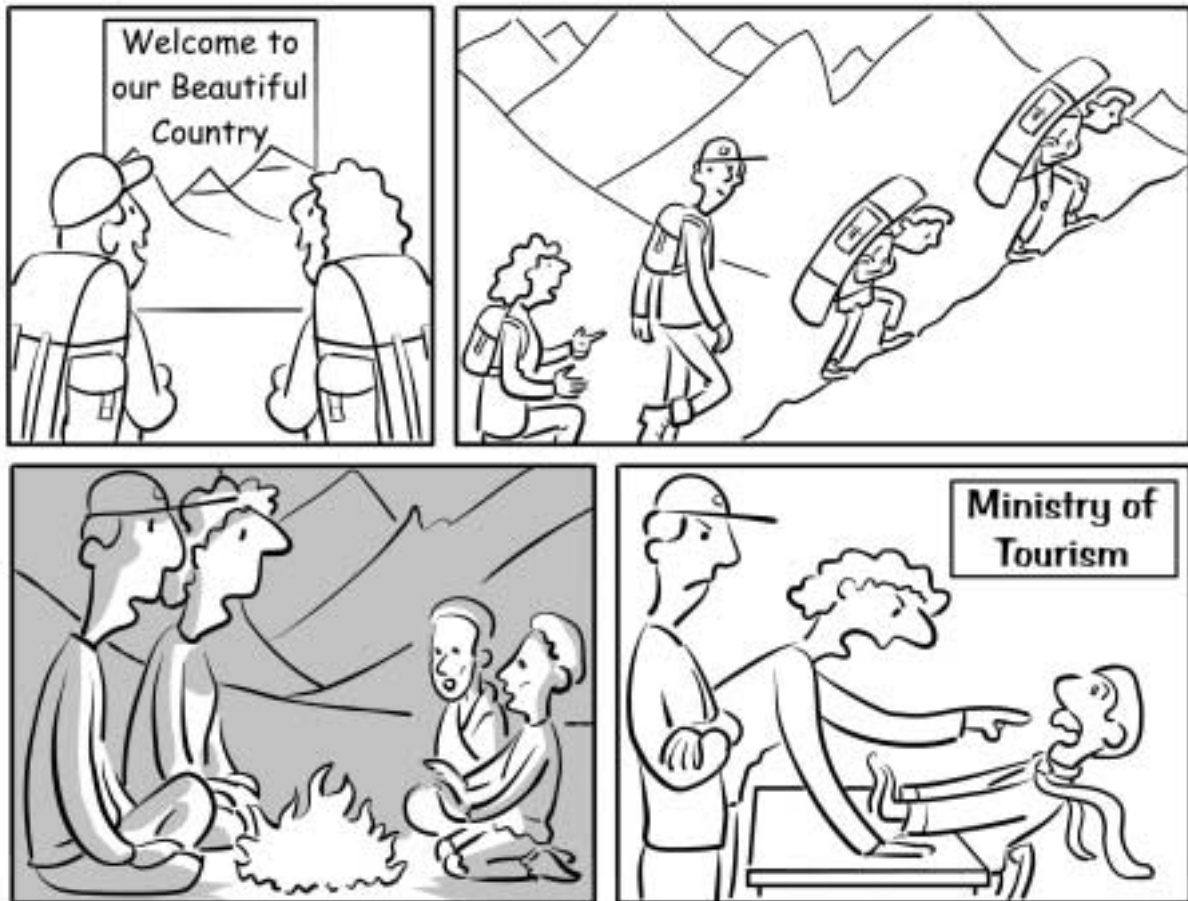
If an organisation wishes to submit information about a state's behaviour to a monitoring or complaints mechanism at international or regional level, the first thing it has to establish is the state's responsibility for the violations being highlighted.

International conventions are legally binding on ratifying states. As a result, it is states that are held responsible for implementing and enforcing them. Though there are exceptions, states are not normally responsible for actions taken on their territory by private individuals and cannot be held accountable for such actions. As a result, monitoring and complaints mechanisms are used when scrutinising how states, not private individuals, are respecting their obligations. Organisations need to bear this in mind when submitting information, ensuring that it illustrates the state's failure to fulfil its obligations. State obligations come in two categories:

- (i) 'Positive' obligations mean that a state undertakes to do something;**
- (ii) 'Negative' obligations mean that a state undertakes not to do something.**

What was the role of the state in the particular area of exploitation being described? For example, a state may have ratified ILO Convention 182 expressly prohibiting the trafficking of children. Here, an NGO could present a complaint on state failure to take measures to prevent trafficking. Such measures could include birth registration, proper border controls and the prosecution of traffickers. A state cannot be held responsible for the actions of the trafficker, but it can be held responsible for not removing or prosecuting immigration officials known to take bribes from traffickers, or for not removing or prosecuting state officials who provide false documents, or for committing itself to prosecute traffickers themselves and then not doing so.

The state's failure to protect children from the causes of child labour can also be highlighted. For example, we know there are many causes of child labour, from discrimination to poor and/or inadequate education provision to tradition. If a state has committed itself to taking measures to prevent discrimination, then its failure to do so conflicts with its commitment to combat child labour. Even in situations where bodies other than the state are responsible, such as companies or employers, the state is still responsible for regulating the practice of those other bodies.



b) Where systematic violations are taking place and no action is being taken

Though some monitoring and complaints procedures do address individual complaints (see for example information on the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography in Section 3.4 below) most are designed to help combat systematic human rights violations. This is not because isolated violations are not taken seriously, simply that the processes involved are lengthy and aim to impact state policy or behaviour, rather than addressing remedies for individuals whose rights have been violated.

Certainly, the cases of particular individuals can be used to describe a pattern of exploitation, but individual case studies are best used to illustrate a pattern. For example, an Indian NGO called the Campaign Against Child Labour submitted an alternative NGO Report on the situation of child labour in India when the Indian Government was before the Committee on the Rights of the Child in January 2000. This was a comprehensive report looking at child labour across India, from mining to the beedi (local cigarette) industry, from bonded labour to domestic work. The report included a table of case studies to illustrate its examples and to indicate that although child labour is a general problem in India, exploitation has a human face affecting individual children every day. The Committee's recommendations (known as Concluding Observations) to the Government included seven recommendations specifically on the issue of child labour, including on child bonded labour, mining and the beedi industry. So many recommendations on child labour alone shows that the better the NGO's report is, the better the response from the Committee.

c) Where there is a need to place a hitherto ignored or insufficiently addressed issue on the international agenda

Although there is now increased international awareness on the issue of child labour, many elements of the problem are still insufficiently addressed. For example, the issue of child labour in the formal economy, relating to exports from the developing world to the industrialised countries received a lot of attention throughout the 1990s. However, the ILO estimates that only 5% of child labour is in export industries. The vast majority of exploited children are working in the informal economy in sectors such as agriculture and domestic work. Nevertheless, many organisations working on the issue of child labour from local to international level remain ill-informed about child labour in the less visible or less publicity-friendly sectors.

As a result, using complaints procedures to highlight hitherto ignored or marginalized areas of child labour can be very productive. It raises awareness of the problem and can cause policy makers to consider new areas of work and research. Anti-Slavery International and several other organisations have consistently used the UN Working Group on Contemporary Forms of Slavery to raise awareness of the problem of child domestics, in conjunction with other advocacy activities.

For example, between 1998 and 2002 submissions to the Working Group on Contemporary Forms of Slavery (see Section 3.3) on the issue came from organisations in the Philippines, Haiti, West Africa and Costa Rica. These submissions were also copied to UN agencies such as UNICEF and the International Labour Organisation and other interested NGOs to indicate the level of the problem. This has played a part in helping those organisations to become aware of the issue. They are now taking up the question of child domestic workers, conducting and funding research, formulating policy on how to address it, funding programmes on child domestic workers and helping to raise awareness within civil society, governments and other international organisations.

6. Style is everything: how to write and present your complaint

Anyone making a submission of any kind is presenting information to be judged. This information may be required in a written or oral format, long or short, and can be presented with or without visual aids and additional supporting materials.

Presenting the facts

It is vital that your information presents your case in the best possible light, so what can you do to ensure this? Here are some suggestions, with ideas of how to carry them out in italics.

- ▶ **Be clear and easy to understand:**
use short, simple sentences without jargon or acronyms.
- ▶ **Illustrate how working children are being exploited:**
describe the context and details of the exploitation.
- ▶ **Be specific, objective and reliable:**
provide or indicate available evidence to substantiate your claims, including dates, times and places.
- ▶ **Use a variety of information sources such as:**
legislation, analyses of pending legislation, government reports, media reports, statistics, research and reports (by academics, other non-governmental organisations, UN agencies and the Bretton Woods institutions), books, periodicals, reports of parliamentary proceedings, police or court records, statements from involved parties.
- ▶ **Show how this exploitation violates particular rights:**
make reference to the relevant articles of the convention you are complaining under.
- ▶ **When describing a state's action or inaction:**
make sure you do not just list the violations and the rights they violate, but also the consequences of the state's action. For example, the recruitment of young children as child soldiers in a state's armed forces potentially violates the child's right to survival and development, to be cared for by its family, to education, and to health. The consequences for the child may include injury, death, ill-health, lack of education etc.
- ▶ **Be balanced in tone, no matter how strongly you feel about the strength of your case:**
let the facts speak for themselves without exaggeration.
- ▶ **Remember that the sympathy of those you are appealing to may be useful:**
think about your target audience and how to keep them on your side.
- ▶ **Present a possible solution or remedy to the exploitation:**
suggest how the state could better protect its children and fulfil its obligations.

Though we do not have space in this guide to provide a sample of such a submission, examples of Anti-Slavery's submissions can be found on our web site at www.antislavery.org.

Counteract the state's defence

Think of how the state may respond to your arguments, and try to counter its defence, showing why it is inadequate and why domestic legislation is either inadequate or not being applied. For example, you might want to accuse a state that you know has ratified the CRC and ILO Conventions 138 and 182 of using exploitative child labour. Often states respond to complaints by saying that they have ratified all relevant legislation. Make it clear that you are aware that the state has ratified relevant legislation, but that you can provide evidence of its failure to implement that legislation, or illustrate how the state has failed to harmonise domestic legislation with international legislation, leaving contradictions in the law at national level.

Safety in numbers

Remember that there is safety in numbers. States may try to discredit one organisation making accusations against it. It could charge that organisation with ulterior motives - political, historical or religious for example. However, if those accusations come from a group or coalition of organisations, it becomes much harder for the state to deflect criticism by discrediting its accuser. Working as a group can therefore afford better protection from damaging tactics by the state.



7. Endnotes

page 10 ¹ See: OBSERVATIONS AND INFORMATION CONCERNING PARTICULAR COUNTRIES International Labour Conference, Provisional Record PART TWO, Eighty-ninth Session, Geneva, 2001 Available at: <http://www.ilo.org/public/english/standards/relm/ilc/ilc89/pdf/pr-19-2.pdf> Pag. 2/83 & 2/84

page 11 ² A 'direct contacts' mission is where a representative of the ILO's Director-General visits a country where no progress is being made on a particular issue. Although the mission can only take place with the agreement of the government, when governments do not cooperate, this only draws even more unwanted attention to the violations occurring and the failure to engage in constructive dialogue.

8. Bibliography/Recommended further reading

UN Mechanisms for use by national NGOs in the combat against the sexual exploitation of children, NGO Group for the CRC, 1998, www.focalpointngo.org

A UN Road Map: a guide for Asian NGOs to the international human rights system and other mechanisms, Canadian Human Rights Foundation/Ateneo HR Centre/Asian Migrant Centre/Asian Pacific Forum on Women, Law and Development, 2000.

A guide for NGOs reporting to the Committee on the Rights of the Child, NGO Group for the CRC, 1998, www.crin.org/NGOGroupforCRC

Networking for Children's rights: a guide for NGOs, NGO Group for the CRC, 2001, www.crin.org/NGOGroupforCRC

Advocating children's rights in the human rights system of the United Nations, Radda Barnen, 1999.

Orientation manual: the UN Commission on Human Rights, its Sub-Commission, and related procedures, Minnesota Advocates for Human Rights/International Service for Human Rights, 1993.

Human Rights and trafficking in persons: a handbook, Global Alliance Against Trafficking in Women, 2001, available in English, French, Polish and Thai www.inet.co.th/org/gaatw

The UN and refugees' human rights: A manual on how human rights mechanisms can protect the rights of refugees, Amnesty International/International Service for Human Rights, 1997, www.amnesty.org / www.ishr.ch

Promoting and defending economic, social and cultural rights: a handbook, Allan McChesney, American Association for the Advancement of Science/HURIDOCS, 2000, www.hrea.org/erc/Library/reference

The Human Rights Handbook: a practical guide to monitoring human rights, Kathryn English & Adam Stapleton, Human Rights Centre, University of Essex, UK, 1995

Independent institutions protecting children's rights, Innocenti Digest 8, UNICEF Innocenti Research Centre, 2001, www.unicef-icdc.org

Do you know about the new ILO Convention on the Worst Forms of Child Labour?, NGO Group for the CRC Sub-Group on Child Labour, 2001, pdf downloadable at www.antislavery.org

Human Rights for Street and Working Children: a practical manual for advocates, Iain Byrne, Intermediate Technology Publications Limited, 1998, www.oneworld.org/itdg/publications.html

The International Labour Organization: a handbook for Minorities and Indigenous Peoples, Chandra Roy and Mike Kaye, Anti-Slavery International and Minority Rights Group International, 2002, pdf downloadable at www.antislavery.org

9. Useful contacts

9.1 Contacts relating to international mechanisms described above

Committee on the Rights of the Child

Office of the High Commissioner for Human Rights
Tel: (41) 22 917-9000
www.unhchr.ch

UN Working Group on Contemporary Forms of Slavery

Secretary to the UN Working Group on Contemporary Forms of Slavery
Office of the High Commissioner on Human Rights
Tel: (41) 22 917 9000
Email: m.tebourbi@unhchr.ch

Voluntary Trust Fund on Contemporary Forms of Slavery, Ms. Eulàlia Ortadó

Tel: (41) 22 917 9145 /917 9266 /917 9164
Fax: (41) 22 917 9017.
Email: eortado-rosich.hchr@unog.ch
or emonsalve.hchr@unog.ch

Special Rapporteur on the sale of children, child prostitution and child pornography

c/o Office of the High Commissioner for Human Rights
Fax: (41) 22 917 9006
Email: webadmin.hchr@unog.ch (please include in the subject box: Special Rapporteur on the sale of children, child prostitution and child pornography)

UN Secretary General's Special Representative on Children in Armed Conflict

Tel: (1) 212 963 4680
Fax: (1) 212 963 0807
Email: morris@un.org
www.un.org/special-rep/children-armed-conflict/

International Labour Organisation/International Programme for the Elimination of Child Labour

Tel: (41) 22 799 6486
Fax: (41) 22 799 8771
Email: ipec@ilo.org
www.ilo.org/childlabour

9.2 Contacts for regional mechanisms outlined above

The African Commission on Human & Peoples' Rights

Tel: (220) 392962;
Fax: (220) 390764
Email: idoc@achpr.org
www.achpr.org

Asia Pacific Forum for National Human Rights Institutions

Tel: (61) 2 9284 9644
Fax: (61) 2 9284 9825
Email: apf@hreoc.gov.au
www.apf.hreoc.gov.au

Inter-American Commission on Human Rights

Tel: (1) 202 458-6002
Fax: (1) 202 458-3992
Email: cidhoea@oas.org
www.cidh.org

South Asian Association for Regional Cooperation Secretariat

P.O. Box 4222, Kathmandu, Nepal.
Tel: (977) 1 221794 /221785
Fax: (977) 1 227033 /223991
Email: saarc@saarc-sec.org
www.saarc-sec.org

The Council of Europe

Tel: (33) 3 88 41 20 33
Fax : (33) 3 88 41 27 45
Email : infopoint@coe.int
www.coe.int

9.3 International trade unions

International Confederation of Free Trade Unions

Tel: (32) 2 224 0328
Fax: (32) 2 201 5815
Email: internetpo@icftu.org
www.icftu.org

9.4 NGOs

African Network for Prevention and Protection Against Child Abuse and Neglect (ANPPCAN)

Tel: (254) 2 576 502/573 990

Fax: (254) 2 576 502

Email: anppcan@arcc.or.ke

www.anppcan.org

African Centre for Democracy and Human Rights Studies

Tel: (220) 394525 /394961

Fax: (220) 394962

Email: info@acdhrs.org

www.acdhrs.org

Anti-Slavery International

Tel: (44) 20 7501 8920

Fax: (44) 20 7738 4110

Email: antislavery@antislavery.org

www.antislavery.org

Arab Institute for Human Rights

Tel: (216) 71 767 889 /767 003

Fax: (216) 71 750 911

Email: aihr.infocenter@gnet.tn

www.aihr.org.tn

Arab Organisation for Human Rights

Tel: (20) 2 4181396 /4188378

Fax: (20) 2 4185346

Email: aohr@link.com.eg

www.aohr.org

Casa Alianza

Tel: (506) 2453 5439

Fax: (506) 224 5689

Email: bruce@casa-alianza.org

Website: www.casa-alianza.org

Center for Justice and International Law (CEJIL)

Tel: (202) 319 3000

Fax: (202) 319 3019

Email: washington@cejil.org

www.cejil.org

Child Rights Information Network: www.crin.org

Child Workers in Asia

Tel: (66) 2 930 0855

Fax: (66) 2 930 0856

Email: cwanet@loxinfo.co.th

www.cwa.tnet.co.th

Coalition to Stop the Use of Child Soldiers

Tel: (44) 207 713 2761

Fax: (44) 207 713 2794

Email: info@childsoldiers.org

www.child-soldiers.org

Consortium for Street Children

Tel: (44) 20 7274 0087

Fax: (44) 20 7274 0372

Email: info@streetchildren.org.uk

www.streetchildren.org.uk

Defence for Children International

Fax: (41) 22 740 1145

Email: dci-hq@pingnet.ch

www.defence-for-children.org

ECPAT International

Fax: (66) 2 215 8272

Email: ecpatbkk@ksc15.th.com

www.ecpat.net

Focal Point on Sexual Exploitation

Tel: (41) 22 740 4711

Fax: (41) 22 740 1145

Email: info@focalpointngo.org

www.focalpointngo.org

Global March Against Child Labour

Tel: (91) 11 622 4899 /647 5481

Fax: (91) 11 623 6818

Email: yatra@del2.vsnl.net.in

Childhood@globalmarch.org

www.globalmarch.org

www.childservants.org

Human Rights Documentation Centre

www.hrdc.net

Human Rights Watch

Tel: (1) 212 290 4700

Fax: (1) 212 736 1300

Email: hrwnyc@hrw.org

www.hrw.org

Inter-American Institute of Human Rights

Tel: (506) 234 04 04

Fax: (506) 234 09 55

Email: soc.civil@iidh.ed.cr

www.iidh.ed.cr

International Commission of Jurists

Tel: (41) 22 979 38 00

Fax: (41) 22 979 38 01

Email: info@icj.org

www.icj.org

International Federation Terre des Hommes

Fax: (41) 22 736 1510

Email: intl-rel@iftdh.org

www.iftdh.org

International Save the Children Alliance

Tel: (44) 20 8748 2554

Fax: (44) 20 8237 8000

Email: info@save-children-alliance.org

www.savethechildren.net

International Service for Human Rights

Tel: (41) 22 733 5123

Fax: (41) 22 733 0826

www.ishr.ch

NGO Group for the Convention on the Rights of the Child /Sub-Group on Child Labour

Fax: (41) 22 740 1145

Email: ngo.group@pingnet.ch

Social and Economic Rights Centre, Nigeria

Tel: (234) 1 584 0288

Email: serac@linkserve.com.ng

South Asian Human Rights Documentation Centre

Tel: (91) 11 619 1120 /619 2717 /619 2706

Fax : (91) 11 619 1120

Email: hrdc_online@hotmail.com

www.hrdc.net/sahrdc

World Vision

Fax: (41) 22 798 6547
Email: geneva@wvi.org
www.wvi.org

9.5 National coalitions on child rights

The National Child Rights Coalitions can be contacted via the Child Rights Information Network at www.crin.org. Alternatively, their details can be obtained through the Geneva NGO Group for the CRC, see above.

9.6 International Working Children's Organisations

Concern for Working Children

Fax: (91) 80 523 42 58
Email: cwc@pobox.com
www.workingchild.org

ENDA Jeunesse Action (African Movement for Working Children and Youth)

Tel: (221) 821 74 03/821 21 13
Fax: (221) 823 5157
Email: ejt@enda.sn
www.enda.sn/eja

NATS Ninos/as y Adolescentes Trabajadores

Coordinating Organisation of the Latin American working children's movement
Email: mnnatsop@bigfoot.com

10. Glossary

Admissibility

The prerequisites that an individual, group or state must fulfil before it is permitted to present its case to a particular monitoring, supervisory or legal body.

Convention

A binding agreement between states; the same as a treaty or a covenant.

Declaration

A document representing agreed upon standards, but which is not legally binding.

Domestic law

National law

Monitoring procedures

A procedure that does not usually result in legally-enforceable remedies. Monitoring and reporting procedures are usually the examination and assessment of state behaviour (either by the state itself or others such as NGOs or trade unions), often resulting in recommendations.

Ratification

The process by which a legislature, such as a parliament, confirms a government's action in signing a treaty. Therefore ratification is the formal procedure by which a state becomes legally bound to a convention.

Remedy

The means by which a right is enforced or the violation of a right is prevented, redressed or compensated, such as compensation following a case taken to national courts.

Submission

This is the initial document of information that begins an action. A submission gives a brief summary of how the state or its agents have violated the human rights of individuals or groups of individuals, such as child labourers.

Accreditation

Access to some elements of the UN system may be restricted to NGOs with consultative status with the UN's Economic and Social Council (ECOSOC). NGOs without this status can become affiliated to those with accreditation (as consultative status is known), or they may apply for it themselves by contacting the Department of Economic and Social Affairs at the following address:

DESA NGO Section
1 UN Plaza. Room DC1-1480
New York, NY 10017
tel: (212) 963 8652
fax: (212) 963 9248
desangosection@un.org
www.un.org/esa/coordination/ngo/ngosection

Further Anti-Slavery publications available for sale
on our secure website:

www.antislavery.org/homepage/resources/publication

or as a PDF download from our website:

www.antislavery.org/homepage/resources/PDFpublication

Child domestic workers: A handbook for research and action,
1997 (in English, French & Spanish)

ISBN 0 900918 41 1

Price £6.00

Child domestic workers: Finding a voice. A handbook on advocacy,
2002 (in English, French & Spanish)

ISBN 0 900918 51 9

Price £8.00

*Do you know about the new ILO Worst Forms of
Child Labour Convention?*

2000 (in English, French, Spanish, Arabic, Hindi and Burmese)

PDF download only

Forced Labour in the 21st Century,

2001 (English only)

ISBN 0 900918 50 0

Price £2.50

Human Rights & Trafficking in Persons: A Handbook,

2001 (English only) not available as a PDF download

ISBN 974 784208 4

Price £8.00

The ILO: A Handbook for Minorities and Indigenous Peoples

Minority Rights Group & Anti-Slavery International 2002

(English only)

ISBN 8976 93 39 7

Price £4.95

Alternatively, please contact Becky Smaga for further
information at: **Anti-Slavery International**,

Thomas Clarkson House, The Stableyard,

Broomgrove Road, London SW9 9TL. UK

Tel: +44 (0)20 7501 8922 Fax: +44(0)20 7738 4110

Email: b.smaga@antislavery.org

Written and edited by Pins Brown

Design and layout by Becky Smaga

Cartoons by Eric Jones

Translation (Spanish) by Jorge Castilla

Translation (French) by Françoise Comte

and Odile Bertin-Faull

Printed by The Printed Word, Horsham, West Sussex

This is a guide for all those organisations wanting to persuade states to take action against child labour. It explains how to use international monitoring and complaints procedures to encourage states to respect their obligations regarding exploited children.

International action against child labour: a guide to monitoring and complaints procedures details some of the procedures available for combating exploitative child labour, why it is worth using them, and how to use them. It also gives you the contacts needed to access those procedures.

The guide is designed for human rights and child rights organisations with some knowledge of international human rights mechanisms. In particular it is for those working on advocacy. It is written in a clear style and uses case studies and cartoons to show that international and regional mechanisms can be a useful tool to seek justice for exploited children.

Anti-Slavery International is the world's oldest international human rights organisation and was set up in 1839. Anti-Slavery is committed to eliminating slavery through research, raising awareness and campaigning. It works with local organisations to put pressure on governments to acknowledge slavery and to take action to abolish its practice.

Anti-Slavery is a registered charity 1049160



Anti-Slavery International

Thomas Clarkson House, The Stableyard
Broomgrove Road, London SW9 9TL

Tel: +44(0)20 7501 8920 Fax: +44(0)20 7738 4110

e-mail: antislavery@antislavery.org

www.antislavery.org