

MINIMAL ADVANCEMENT – EFFORTS MADE BUT CONTINUED PRACTICE THAT DELAYED ADVANCEMENT

In 2018, Tonga made a minimal advancement in efforts to eliminate the worst forms of child labor. The government established a labor law complaint mechanism, and it is currently in the process of ratifying the ILO Convention concerning Minimum Age for Admission to Employment (C. 138) and the ILO Convention concerning the Worst Forms of Child Labor (C. 182). However, despite new initiative to address child labor, Tonga is receiving an assessment of minimal advancement because it continued to implement a practice that delayed advancement in eliminating the worst forms of child labor. Research indicates the labor inspectorate failed to conduct any worksite inspections for the second year in a row. Labor inspections are a key tool for identifying child labor violations, and their absence makes children more vulnerable to the worst forms of child labor. Additionally, the government has not ratified ILO C. 182. Children engage in the worst forms of child labor, including in commercial sexual exploitation, sometimes as a result of human trafficking. Children also perform dangerous tasks in agriculture and fishing. Gaps in the legal framework also remain; the country has no laws specifying a minimum age for work or defining hazardous forms of work for children under age 18, leaving children unprotected from labor exploitation. In addition, the government has not established a policy or program to address child labor, including its worst forms.



I. PREVALENCE AND SECTORAL DISTRIBUTION OF CHILD LABOR

Children in Tonga engage in the worst forms of child labor, including in commercial sexual exploitation. Children also perform dangerous tasks in agriculture and fishing. (1) Table 1 provides key indicators on children’s work and education in Tonga. Data on some of these indicators are not available from the sources used in this report.

Table 1. Statistics on Children’s Work and Education

Children	Age	Percent
Working (% and population)	5 to 14	Unavailable
Attending School (%)	5 to 14	Unavailable
Combining Work and School (%)	7 to 14	Unavailable
Primary Completion Rate (%)		111.0

Source for primary completion rate: Data from 2013, published by UNESCO Institute for Statistics, 2019. (2) Data were unavailable from International Labor Organization’s analysis, 2019. (3)

Based on a review of available information, Table 2 provides an overview of children’s work by sector and activity.

Table 2. Overview of Children’s Work by Sector and Activity

Sector/Industry	Activity
Agriculture	Subsistence farming, fishing (4)
Services	Vending (4)
Categorical Worst Forms of Child Labor‡	Forced domestic work(4-6)
	Commercial sexual exploitation, sometimes as a result of human trafficking (4,5)
	Use in trafficking of drugs (4,7,8)

‡ Child labor understood as the worst forms of child labor *per se* under Article 3(a)–(c) of ILO C. 182.

The Government of Tonga has not published data on child labor. The Ministry of Commerce, Consumer, Innovation, Trade, and Labor (MCCITL) study, which resulted in an internal “Report of a Spot Survey on the Worst Forms of Child Labor in Tonga,” has yet to be published. (4)

Tonga

MINIMAL ADVANCEMENT – EFFORTS MADE BUT CONTINUED PRACTICE THAT DELAYED ADVANCEMENT




During the reporting period, there was evidence indicating that the growing methamphetamine epidemic has resulted in drug dealers starting to recruit school-aged children to assist with drug deliveries, while also getting them addicted to the drug, thus ensuring that they have “a client for life.” (4,7,8)

Many school buildings remain inaccessible to students with physical disabilities, resulting in the attendance rates of children with disabilities, at all educational levels, to be lower than children without disabilities. (4,9)

II. LEGAL FRAMEWORK FOR CHILD LABOR

Tonga has ratified one key international convention concerning child labor (Table 3).

Table 3. Ratification of International Conventions on Child Labor

Convention	Ratification
 ILO C. 138, Minimum Age	
ILO C. 182, Worst Forms of Child Labor	
 UN CRC	✓
UN CRC Optional Protocol on Armed Conflict	
UN CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	
 Palermo Protocol on Trafficking in Persons	

The government has established laws and regulations related to child labor (Table 4). However, gaps exist in Tonga’s legal framework to adequately protect children from the worst forms of child labor, including the minimum age for work.

Table 4. Laws and Regulations on Child Labor

Standard	Meets International Standards	Age	Legislation
Minimum Age for Work	No		
Minimum Age for Hazardous Work	No		
Identification of Hazardous Occupations or Activities Prohibited for Children	No		
Prohibition of Forced Labor	No		Sections 69–70 of the Counter Terrorism and Transnational Organised Crime Act (10)
Prohibition of Child Trafficking	No		Section 69 of the Counter Terrorism and Transnational Organised Crime Act (10)
Prohibition of Commercial Sexual Exploitation of Children	No		Sections 115A, 125, and 126 of the Criminal Offences Act (11)
Prohibition of Using Children in Illicit Activities	No		
Minimum Age for Voluntary State Military Recruitment	Yes	16	Section 25 of the Defence Services Act (12)
Prohibition of Compulsory Recruitment of Children by (State) Military	Yes*		Section 25 of the Defence Services Act (12)
Prohibition of Military Recruitment by Non-state Armed Groups	No		
Compulsory Education Age	Yes	18	Section 98 of the Education Act 2013 (13)
Free Public Education	No		Section 95 of the Education Act 2013 (13)

* No conscription (12)

During the reporting period, the Government of Tonga noted that it was in the process of ratifying C. 182 and C.

MINIMAL ADVANCEMENT – EFFORTS MADE BUT CONTINUED PRACTICE THAT DELAYED ADVANCEMENT

138, with consultations scheduled to take place in January 2019. (4)

The Parliament has tabled the Employment Relations Bill for discussion at the next legislative session in 2019, which would establish a minimum age for non-hazardous and hazardous work and would prohibit the categorical worst forms of child labor. Furthermore, the Parliament has not determined the types of hazardous work prohibited for children. (1,4,14-16) Once the bill is passed, the labor inspectorate will be given legal authority to conduct labor inspections. (16) The results from a child labor survey conducted by Tonga’s Women and Children’s Crisis Center were used to provide recommendations for the drafting of the Employment Relations Bill. (4)

The Counter Terrorism and Transnational Organized Crime Act is insufficient to meet the international standard for the prohibition of child trafficking because it does not specifically prohibit the domestic trafficking of children, nor does it criminally prohibit forced labor, debt bondage, and slavery, unless they involve transnational human trafficking. (5,10,17)

The Criminal Offences Act prohibits the procurement of women and girls under age 21 for commercial sexual exploitation, but does not criminalize the procurement of boys for the same. (18) In addition, the Act does not sufficiently prohibit commercial sexual exploitation, because the use of children under age 14 in the production of pornography is not criminally prohibited. The Act also does not specifically prohibit using children in illicit activities, particularly in the production and trafficking of drugs. (11,18,19) In addition, the Defence Services Act does not prohibit the recruitment of children by non-state armed groups. (12)

Although it does not appear that there are any laws that provide free basic education, there is a policy that sufficiently provides for free basic education to all children between the ages of 6 and 14. (4,20) Additionally, during the reporting period, a Ministry of Education and Training program to bring children with disabilities into primary schools continued.

III. ENFORCEMENT OF LAWS ON CHILD LABOR

The government has established institutional mechanisms for the enforcement of laws and regulations on child labor (Table 5). However, the absence of labor inspectors at the national level in Tonga may impede the enforcement of child labor laws.

Table 5. Agencies Responsible for Child Labor Law Enforcement

Organization/Agency	Role
Ministry of Commerce, Consumer, Innovation, Trade and Labor (MCCITL)	Enforces labor laws, including those related to child labor and the worst forms of child labor, through business license inspectors and a chief labor inspector. The position of Chief Labor Inspector is currently vacant. (1,4,16) This agency failed to conduct worksite inspections during the reporting period. (21)
Tonga Police, Transnational Crime Unit, and Domestic Violence Unit	Enforces criminal laws related to the worst forms of child labor. (1) With NGOs, handles and coordinates cases related to women and children. (4) This agency was active during the reporting period. (16)
Ministry of Internal Affairs, Immigration Department	Collaborates with Tonga Police and the MCCITL on the enforcement of criminal laws in cases in which foreign nationals are involved in the worst forms of child labor. (1,4) This agency was active during the reporting period. (16)

There is no single agency responsible for the enforcement of laws relating to child labor and hazardous child labor. (4) During the reporting period, the Tonga Police recruited an Asian Liaison Officer for language interpretation services for foreign Asian victims of human trafficking. (6)

Labor Law Enforcement

In 2018, the absence of worksite inspections at the national level in Tonga may have impeded the enforcement of child labor laws (Table 6).

Table 6. Labor Law Enforcement Efforts Related to Child Labor

Overview of Labor Law Enforcement	2017	2018
Labor Inspectorate Funding	\$0 (1)	\$0 (16)
Number of Labor Inspectors	Unknown	0 (16)
Inspectorate Authorized to Assess Penalties	Unknown	N/A (16)
Initial Training for New Labor Inspectors	Unknown	N/A (16)
Training on New Laws Related to Child Labor	N/A (1)	N/A (16)
Refresher Courses Provided	Unknown	N/A (16)
Number of Labor Inspections Conducted	0 (1)	0 (16)
Number Conducted at Worksite	0 (1)	0 (16)
Number of Child Labor Violations Found	0 (1)	0 (16)
Number of Child Labor Violations for Which Penalties Were Imposed	0 (1)	0 (16)
Number of Child Labor Penalties Imposed that Were Collected	0 (1)	0 (16)
Routine Inspections Conducted	Unknown	N/A (16)
Routine Inspections Targeted	Unknown	N/A (16)
Unannounced Inspections Permitted	Unknown	N/A (16)
Unannounced Inspections Conducted	Unknown	N/A (16)
Complaint Mechanism Exists	No (1)	Yes (16)
Reciprocal Referral Mechanism Exists Between Labor Authorities and Social Services	No (1)	No (4)

The Tonga Police set up a drug taskforce in April 2018, resulting in 96 arrests, but more resources are needed to address the growing problem of Tongan children being targeted by drug syndicates. (7,8)

Inadequate resources, including a lack of funding to hire and train the labor inspectors needed to target sectors in which child labor is present, hamper the government’s capacity to enforce child labor laws in Tonga. (1,4,22) Child labor inspections are complaint driven, with police called in for suspected cases of child labor. While a complaint mechanism exists, it is still in need of improvement, and the government has yet to establish an adequate referral mechanism among the labor inspectorate, the police, and social welfare services. (4)

Criminal Law Enforcement

Research did not find information on whether criminal law enforcement agencies in Tonga took actions to combat child labor (Table 7).

Table 7. Criminal Law Enforcement Efforts Related to Child Labor

Overview of Criminal Law Enforcement	2017	2018
Initial Training for New Criminal Investigators	Unknown	N/A (16)
Training on New Laws Related to the Worst Forms of Child Labor	N/A	N/A (4)
Refresher Courses Provided	Unknown	N/A (4)
Number of Investigations	Unknown	N/A (16)
Number of Violations Found	Unknown	N/A (16)
Number of Prosecutions Initiated	Unknown	N/A (16)
Number of Convictions	Unknown	N/A (16)
Imposed Penalties for Violations Related to The Worst Forms of Child Labor	Unknown	N/A (16)
Reciprocal Referral Mechanism Exists Between Criminal Authorities and Social Services	Yes (1)	Yes (21)

The Tonga Police coordinate with NGOs to handle labor abuse cases relating to women and children, but no formal referral mechanism exists. (4) The Tonga Police continued to train their new recruits on human trafficking crimes and identification techniques during their basic police training. Additionally, the government maintains and operates a 24-hour hotline for emergency assistance, which is available to victims of child labor, forced labor, and human trafficking. (6)

MINIMAL ADVANCEMENT – EFFORTS MADE BUT CONTINUED PRACTICE THAT DELAYED ADVANCEMENT

IV. COORDINATION OF GOVERNMENT EFFORTS ON CHILD LABOR

Research found no evidence that the government has established mechanisms to coordinate its efforts to address child labor.

V. GOVERNMENT POLICIES ON CHILD LABOR

The government has established policies related to child labor (Table 8). However, policy gaps exist that hinder efforts to address child labor, including mainstreaming child labor issues into relevant policies.

Table 8. Key Policies Related to Child Labor

Policy	Description
United Nations Pacific Strategy (2018–2022)†	A multinational strategic framework program consisting of 14 South Pacific nations to address, develop, and implement strategic economic development priorities in the South Pacific, including eliminating child labor and the worst forms of child labor. (23)

† Policy was approved during the reporting period.

The Tonga Strategic Development Plan Nine indirectly addresses the root causes of child labor, as it seeks to improve economic opportunities in the country, including those for youth. Additionally, the Tonga Education Policy Framework, supported by the Governments of Australia and New Zealand through 2019, focuses on improving school quality, achievement of universal basic education, and improving management within the Ministry of Education, thereby having a positive impact in the reduction of child labor through universal education. (4)

VI. SOCIAL PROGRAMS TO ADDRESS CHILD LABOR

In 2018, the government funded and participated in programs that included the goal of eliminating child labor (Table 9). However, gaps exist in these social programs, including adequacy to address the problem in all sectors.

Table 9. Key Social Programs to Address Child Labor

Program	Description
UNICEF Pacific Multi-Country Child Protection Program (2018–2022)*	Multi-country program in 14 Pacific Island countries. (24) Prioritizes children's rights including the elimination of the worst forms of child labor. Aligned with the UN Pacific Strategy 2018–2022. (24)

* Program was launched during the reporting period.

Social programs are needed to assist children who are victims of the worst forms of child labor, including commercial sexual exploitation and children performing dangerous tasks in agriculture and fishing.

VII. SUGGESTED GOVERNMENT ACTIONS TO ELIMINATE CHILD LABOR

Based on the reporting above, suggested actions are identified that would advance the elimination of child labor in Tonga (Table 10).

Table 10. Suggested Government Actions to Eliminate Child Labor

Area	Suggested Action	Year(s) Suggested
Legal Framework	Ratify ILO C. 182 on Worst Forms of Child Labor; UN CRC Optional Protocol on Armed Conflict; UN CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography; and the Palermo Protocol	2017 – 2018
	Establish labor regulations that include a minimum age of 14 for employment and a minimum age of 18 for hazardous work, in accordance with international standards.	2009 – 2018
	Ensure that the government passes and enacts the Employment Relations Bill which would establish a minimum age for non-hazardous and hazardous work, and would prohibit the categorical worst forms of child labor.	2018
	Create and publish a list of hazardous occupations and activities that are prohibited for children.	2009 – 2018

Table 10. Suggested Government Actions to Eliminate Child Labor (Cont.)

Area	Suggested Action	Year(s) Suggested
Legal Framework	Ensure that the law criminally prohibits forced labor, including debt bondage and slavery.	2015 – 2018
	Ensure that laws specifically prohibit domestic human trafficking of children and the use of children in illicit activities, including in the production and trafficking of drugs.	2014 – 2018
	Ensure that laws prohibit all forms of commercial sexual exploitation for both girls and boys under the age of 18.	2009 – 2018
	Ensure that the law criminally prohibits the recruitment of children under the age of 18 by non-state armed groups.	2016 – 2018
	Establish by law free basic public education.	2016 – 2018
Enforcement	Publish information on labor law and criminal law enforcement activities, efforts, and relevant data.	2014 – 2018
	Improve the adequateness of the current labor law complaint mechanism.	2018
	Provide labor inspectors and criminal investigators with the training and resources necessary to enforce laws prohibiting child labor, including its worst forms.	2013 – 2018
	Establish referral mechanisms among the labor inspectorate, the police, and social welfare services to protect and rehabilitate children involved in child labor, including its worst forms.	2014 – 2018
	Fill the position of Chief Labor Inspector.	2016 – 2018
	Hire labor inspectors to enforce child labor laws.	2016 – 2018
	Allocate more resources to the Tonga Police drug taskforce to address the issue of children participating in illicit activities.	2018
Coordination	Establish a coordinating mechanism to combat the worst forms of child labor.	2009 – 2018
Government Policies	Ensure that child labor issues are properly incorporated into relevant policies.	2017 – 2018
Social Programs	Update all school buildings to ensure accessibility for students with disabilities.	2018
	Implement social programs to address all forms of child labor, including its worst forms.	2010 – 2018
	Collect and publish data on the extent and nature of child labor, including its worst forms, to inform policies and programs.	2017 – 2018
	Publish and make available to the public the results of the Ministry of Commerce, Consumer, Innovation, Trade and Labor’s child labor study.	2018

REFERENCES

- U.S. Embassy- Suva. Reporting. December 18, 2017.
- UNESCO Institute for Statistics. Gross intake ratio to the last grade of primary education, both sexes (%). Accessed: March 16, 2019. For more information, please see “Children’s Work and Education Statistics: Sources and Definitions” in the Reference Materials section of this report. <http://data.uis.unesco.org/>.
- ILO. Analysis of Child Economic Activity and School Attendance Statistics from National Household or Child Labor Surveys. Analysis received March 12, 2019. Please see “Children’s Work and Education Statistics: Sources and Definitions” in the Reference Materials section of this report.
- U.S. Embassy- Suva. Reporting. January 15, 2019.
- U.S. Department of State. Trafficking in Person Report- 2018: Tonga. Washington, DC, June 27, 2018. <https://www.state.gov/reports/2018-trafficking-in-persons-report/tonga/>.
- U.S. Embassy- Suva. Reporting. March 18, 2019.
- I News Now. I NEWS exclusive: A look inside one of Tonga’s five major drug syndicates, as P ravages the kingdom. December 10, 2018. Source on file.
- I News Now. I NEWS special report: Tonga’s children targeted by meth dealers looking to gain ‘a client for life.’ December 9, 2018. Source on file.
- U.S. Department of State. Country Reports on Human Rights Practices- 2017: Tonga. Washington, DC, 2018. <https://www.state.gov/reports/2017-country-reports-on-human-rights-practices/tonga/>.
- Government of Tonga. Counter Terrorism and Transnational Organised Crime Act 2013. Enacted: 2013. <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/98656/117471/F-1641177339/TON98656.pdf>.
- Government of Tonga. Criminal Offences (Amendment) Act 2003. Enacted: 2003. https://www.unodc.org/res/cld/document/ton/1926/criminal-offences-amendment-act-2003_html/Criminal_Offences_Amendment_Act_2003.pdf.
- Government of Tonga. Tonga Defence Services Act 1992 Act 17 of 1992. Enacted 1992. Source on file.
- Government of Tonga. Education Act 2013. Enacted February 26, 2014. Source on file.
- Government of Tonga. Employment Relations Bill [draft]. 2013. <http://www.mctl.gov.to/wp-content/uploads/2013/04/Final-Draft-ERB-2013-April-2013-19Apr13.pdf>.
- Government of Tonga. Submission Re: Child Labor in Tonga. Nuku’alofa, 2014. Source on file.
- U.S. Embassy- Suva official. Email communication to USDOL official. June 24, 2019.
- U.S. Department of State. Trafficking in Persons Report- 2017: Tonga. Washington, DC., June 27, 2017. <https://www.state.gov/reports/2017-trafficking-in-persons-report/tonga/>.
- Government of Tonga. Criminal Offences Act. Enacted: 1988. http://www.paclii.org/to/legis/consol_act/co136/.
- U.S. Embassy- Suva. Reporting. January 15, 2015.

MINIMAL ADVANCEMENT – EFFORTS MADE BUT CONTINUED PRACTICE THAT DELAYED ADVANCEMENT

- 20 Ministry of Education. Tonga Education Policy Framework 2004–2019. Nuku'alofa, April 2004.
<http://planipolis.iiep.unesco.org/en/2004/tonga-education-policy-framework-2004-2019-final-draft-5353>.
- 21 U.S. Embassy- Suva official. Email communication to USDOL official. May 21, 2019.
- 22 U.S. Embassy- Suva. Reporting. February 6, 2017.
- 23 United Nations. United Nations Pacific Strategy 2018-2022: A Multi-Country Sustainable Development Framework in the Pacific Region. United Nations in the Pacific, 2017.
https://www.unicef.org/about/execboard/files/Final_UNPS_2018-2022_Pacific.pdf.
- 24 UN. Strategy Note for the 2018-2022 Pacific Multi-Country Programme of Cooperation. New York, October 10, 2017. Source on file.