

MINIMAL ADVANCEMENT – EFFORTS MADE BUT CONTINUED PRACTICE THAT DELAYED ADVANCEMENT

In 2020, Tonga made minimal advancement in efforts to eliminate the worst forms of child labor. During the reporting period, the government ratified International Labor Organization Convention 182 on the Worst Forms of Child Labor. In addition, the government released the results of the Multiple Indicator Cluster Survey, the first nationwide survey on children and women in Tonga. However, despite new initiatives 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 that there are no labor inspectors and there is no legal authority to conduct labor inspections. 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. Children are subjected to the worst forms of child labor, including in commercial sexual exploitation, sometimes as a result of human trafficking. Children also engage in child labor in farming 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 integrated child labor elimination and prevention strategies into relevant policies to address child labor, including its worst forms.



I. PREVALENCE AND SECTORAL DISTRIBUTION OF CHILD LABOR

Children in Tonga are subjected to the worst forms of child labor, including in commercial sexual exploitation, sometimes as a result of human trafficking. Children also engage in child labor in farming and fishing. (1) Table I 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 I. Statistics on Children's Work and Education

Children	Age	Percent
Working (% and population)	5 to 14	46.8 (Unavailable)
Attending School (%)	5 to 14	94.6
Combining Work and School (%)	7 to 14	47.8
Primary Completion Rate (%)		116.1

Source for primary completion rate: Data from 2013, published by UNESCO Institute for Statistics, 2021. (2)

Source for all other data: International Labor Organization's analysis of statistics from Multiple Indicator Cluster Survey 6 (MICS 6), 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)
Categorical Worst Forms of Child Labor‡	Forced domestic work (4,6-8)
	Commercial sexual exploitation, sometimes as a result of human trafficking (4,6,7)
	Use in illicit activities, including the trafficking of drugs (9-11)

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

During the reporting period, the Government of Tonga released the results of the Multiple Indicator Cluster Survey, the first nationwide survey on children and women in Tonga. The survey, conducted in 2019 with technical support from UNICEF, the United Nations Population Fund, and the Pacific Community, showed that 26 percent of children ages 5 to 17 were involved in economic activities and 28 percent of children were exposed to

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hazardous working conditions. (11) Hazardous conditions included working with dangerous tools, operating heavy machinery, carrying heavy loads, and some exposure to extreme cold, heat, or humidity. However, the survey did not provide information on the sectors in which children were engaged in child labor. (11) The Ministry of Trade and Economic Development (formerly the Ministry of Commerce, Consumer, Innovation, Trade, and Labor) labor study, which was conducted from December 2012 to January 2013 and resulted in an internal "Report of a Spot Survey on the Worst Forms of Child Labor in Tonga," has yet to be published. (4,12)




There was evidence indicating that the growing methamphetamine epidemic has resulted in drug dealers starting to recruit school-age children to assist with drug deliveries, while also getting them addicted to the drug. (9,10) There have been media reports of children as young as age 13 being arrested for possession of drugs for the purposes of distribution. (11)

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. (11)

II. LEGAL FRAMEWORK FOR CHILD LABOR

Tonga has ratified some key international conventions 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 Organized Crime Act (13)
Prohibition of Child Trafficking	No		Section 69 of the Counter Terrorism and Transnational Organized Crime Act (13)
Prohibition of Commercial Sexual Exploitation of Children	No		Sections 115A and 125–126 of the Criminal Offenses Act (14,15)
Prohibition of Using Children in Illicit Activities	No		
Minimum Age for Voluntary State Military Recruitment	Yes	16	Section 25 of the Defense Services Act (16)

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Table 4. Laws and Regulations on Child Labor (Cont.)

Standard	Meets International Standards	Age	Legislation
Prohibition of Compulsory Recruitment of Children by (State) Military	Yes*		Section 25 of the Defense Services Act (16)
Prohibition of Military Recruitment by Non-state Armed Groups	No		
Compulsory Education Age	Yes	18	Section 98 of the Education Act 2013 (17)
Free Public Education	No		Section 95 of the Education Act 2013 (17)

* No conscription (16)

During the reporting period, the Government of Tonga ratified ILO C. 182, thereby giving the Convention on the Worst Forms of Child Labor universal ratification. (18)

The Ministry of Trade and Economic Development has not passed the revised 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. Furthermore, the Parliament has not determined the types of hazardous work prohibited for children. (11,19) When the bill is passed, the labor inspectorate will also be given legal authority to conduct labor inspections. (12,20) In addition, although Article 70 of the Counter Terrorism and Transnational Organized Crime Act prohibits some aspects of forced labor, it does not comprehensively or explicitly criminalize forced labor or slavery. In addition, the Counter Terrorism and Transnational Organized Crime Act does not meet the international standard for the prohibition of child trafficking because it does not specifically prohibit the domestic trafficking of children. (7,13)

The Criminal Offenses Act prohibits the procurement of women and girls under age 21 for commercial sexual exploitation, but it does not criminalize the procurement of boys for the same. 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. (15) There are no criminal prohibitions that specifically prohibit using children in illicit activities, particularly in the production and trafficking of drugs, or the recruitment of children by non-state armed groups. (16) Although it does not appear that there are any laws that provide free basic education, there was a policy that provided for free basic education to all children between ages 6 and 14, which has lapsed during the reporting period. (26)

III. ENFORCEMENT OF LAWS ON CHILD LABOR

Tonga lacks a functioning labor inspectorate for the enforcement of labor laws and regulations (Table 5).

Table 5. Agencies Responsible for Child Labor Law Enforcement

Organization/Agency	Role
Ministry of Trade and Economic Development	Enforces labor laws, including those related to child labor and the worst forms of child labor. The position of Chief Labor Inspector is currently vacant. (5,20)
Tonga Police, Transnational Crime Unit, and Domestic Violence Unit	Enforces criminal laws related to the worst forms of child labor. (1) Responds to forced child labor, human trafficking violations, and commercial sexual exploitation allegations. With NGOs, handles and coordinates cases related to women and children. (11)
Ministry of Internal Affairs, Immigration Department	Collaborates with Tonga Police and the Ministry of Trade and Economic Development on the enforcement of criminal laws in cases in which foreign nationals are involved in the worst forms of child labor. (11)

There is no labor inspectorate and no legal authority to conduct labor inspections in Tonga. (11)

Labor Law Enforcement

In 2020, the absence of labor inspectors and labor inspections at the national level in Tonga may have impeded the enforcement of child labor laws (Table 6).

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Table 6. Labor Law Enforcement Efforts Related to Child Labor

Overview of Labor Law Enforcement	2019	2020
Labor Inspectorate Funding	\$0 (4)	\$0 (11)
Number of Labor Inspectors	0 (4)	0 (11)
Inspectorate Authorized to Assess Penalties	N/A (4)	N/A
Initial Training for New Labor Inspectors	N/A (4)	No (11)
Training on New Laws Related to Child Labor	N/A	N/A
Refresher Courses Provided	N/A (4)	No (11)
Number of Labor Inspections Conducted	0 (4)	0 (11)
Number Conducted at Worksite	0 (4)	0 (11)
Number of Child Labor Violations Found	0 (4)	0 (11)
Number of Child Labor Violations for Which Penalties Were Imposed	0 (4)	0 (11)
Number of Child Labor Penalties Imposed that Were Collected	0 (4)	0 (11)
Routine Inspections Conducted	N/A (4)	N/A (11)
Routine Inspections Targeted	N/A (4)	N/A (11)
Unannounced Inspections Permitted	N/A (4)	N/A (11)
Unannounced Inspections Conducted	N/A (4)	N/A (11)
Complaint Mechanism Exists	Yes (4)	Yes (11)
Reciprocal Referral Mechanism Exists Between Labor Authorities and Social Services	No (4)	No (11)

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. Child labor inspections are complaint driven, with police called in for suspected cases of child labor. (11) In addition, the government has yet to establish an adequate referral mechanism among the labor authorities, the police, and social welfare services. (11)

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	2019	2020
Initial Training for New Criminal Investigators	No (4)	Unknown (11)
Training on New Laws Related to the Worst Forms of Child Labor	N/A (4)	N/A (11)
Refresher Courses Provided	Unknown (4)	Unknown (11)
Number of Investigations	Unknown (4)	0 (11)
Number of Violations Found	Unknown (4)	0 (11)
Number of Prosecutions Initiated	Unknown (4)	0 (11)
Number of Convictions	Unknown (4)	Unknown (11)
Imposed Penalties for Violations Related to the Worst Forms of Child Labor	Unknown (4)	Unknown (11)
Reciprocal Referral Mechanism Exists Between Criminal Authorities and Social Services	Yes (4)	Yes (11)

The government did not provide information on its criminal law enforcement efforts for inclusion in this report. (4) The Tonga Police address crimes related to the worst forms of child labor. In addition, the Tonga Police coordinate with NGOs to handle labor abuse cases relating to women and children. (11) 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. (22) However, no formal referral mechanism exists. (11)

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) Research was unable to determine whether activities were undertaken to implement this policy 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. In addition, the Tonga Education Policy Framework, supported by the Governments of Australia and New Zealand, focuses on improving school quality, achieving universal basic education, and improving management within the Ministry of Education, thereby having a positive impact by reducing child labor through universal education. (11) During the reporting period, the Tonga Minister of Education worked with the Government of New Zealand to develop a new Education Policy Framework. (24) Although the Government of Tonga has adopted the Tonga Strategic Development Plan Nine and the Tonga Education Policy Framework, strategies to prevent and eliminate child labor have not been integrated into those plans.

VI. SOCIAL PROGRAMS TO ADDRESS CHILD LABOR

In 2020, 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. (25) Prioritizes children's rights, including the elimination of the worst forms of child labor. Aligned with the UN Pacific Strategy 2018–2022. (25) During the reporting period, the Government of Tonga participated in UNICEF-supported child protection programs to provide protection to vulnerable children. (11)

Although the Government of Tonga has implemented a program that addresses the elimination of the worst forms of child labor, research found no evidence that it has carried out programs specifically designed to assist children in commercial sexual exploitation, 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	Accede to the UN CRC Optional Protocol on Armed Conflict.	2017 – 2020
	Accede to the UN CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.	2017 – 2020
	Accede to the Palermo Protocol.	2017 – 2020
	Establish labor regulations that include a minimum age of 15 for employment and a minimum age of 18 for hazardous work, in accordance with international standards.	2009 – 2020
	Create and publish a list of hazardous occupations and activities that are prohibited for children.	2009 – 2020
	Ensure that laws specifically prohibit domestic human trafficking of children.	2014 – 2020
	Ensure that the law criminally prohibits forced labor, including debt bondage and slavery.	2015 – 2020

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

Area	Suggested Action	Year(s) Suggested
Legal Framework	Ensure that laws prohibit all forms of commercial sexual exploitation for both girls and boys under age 18.	2009 – 2020
	Ensure that the law prohibits the use of children in illicit activities, including in the production and trafficking of drugs.	2014 – 2020
	Ensure that the law criminally prohibits the recruitment of children under age 18 by non-state armed groups.	2016 – 2020
	Establish by law free basic public education.	2016 – 2020
Enforcement	Hire and train labor inspectors to conduct workplace inspections and enforce child labor laws, including the position of Chief Labor Inspector.	2016 – 2020
	Establish and fund a labor inspectorate with the authority to conduct labor inspections, including routine inspections rather than performing inspections solely based on complaints received, and assess penalties for child labor violations.	2019 – 2020
	Provide labor authorities and criminal investigators with the training and resources necessary to enforce laws prohibiting child labor, including laws related to the worst forms of child labor, and conduct refresher courses.	2013 – 2020
	Establish formal referral mechanisms among the labor authorities, the police, and social welfare services to protect and rehabilitate children involved in child labor, including its worst forms.	2014 – 2020
	Publish information on criminal law enforcement activities, efforts, and relevant data.	2014 – 2020
Coordination	Establish a coordinating mechanism to combat the worst forms of child labor.	2009 – 2020
Government Policies	Publish activities undertaken to implement the United Nations Pacific Strategy (2018–2022) during the reporting period.	2020
	Integrate child labor elimination and prevention strategies into relevant policies.	2017 – 2020
Social Programs	Collect and publish data on the extent and nature of child labor, including its worst forms, to inform policies and programs.	2017 – 2020
	Update all school buildings to ensure accessibility for students with disabilities.	2018 – 2020
	Implement social programs to address all worst forms of child labor, including in commercial sexual exploitation, agriculture, and fishing.	2010 – 2020

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