
International Human Rights

22 June 2015

Duration: 120 minutes

- Please check the number of question sheets both at receipt as well as at submission of the exam. The examination contains three pages (including this one) and three questions.

Notes on marking

- When marking the exam each question is weighted separately. Points are distributed to the individual questions as follows:

Question 1 33 $\frac{1}{3}$ % of total points

Question 2 33 $\frac{1}{3}$ % of total points

Question 3 33 $\frac{1}{3}$ % of total points

Total 100 %

We wish you a lot of success!

Please read the following excerpt of an NGO report on the situation in the imaginary country “Despotania” carefully before answering the questions at the end of the text:

Despotania: Forced Labour Still Widespread in Hazelnut Harvest

It is widely acknowledged that the government of Despotania has long relied on forced labour, including of children as young as nine, to pick hazelnuts produced for export. Despotanian authorities have increased the use of forced labour by adults and older children in the hazelnut sector during the past two years, continuing a trend started in 2012 when the government reduced the number of children forced to pick hazelnuts by increasing the forced labour burden on adults. The government did not, however, eliminate child labour. The move was apparently made to shift the burden away from younger children in response to public investigations and international pressure.

For the 2014 harvest, the Despotanian government forced over a million of its own citizens, children and adults to harvest hazelnuts in abusive conditions on threat of punishment. The authorities harassed local activists and journalists who tried to report on the issue. In 2013, Despotania was the world’s fifth largest exporter of hazelnuts.

The children and adults were forced to work from early September until the beginning of November, to meet hazelnut quotas set for each province. Regional authorities, police, and school administrators, reporting to the prime minister and other cabinet ministers, transported children and adults by bus to the country’s hazelnut plantations, where those far from their homes were assigned temporary housing. The workers picked hazelnuts for weeks at a time, and were not free to leave.

The government also imposed harvest quotas on public institutions such as schools, hospitals, and local administrations, and required them to send up to 30-60% of staff to the plantations, a major increase over last year, seriously undermining the provision of key public services, such as health care and education.

Not only are the hazelnuts harvested with forced labour, but the conditions on the plantations are abusive and harmful. Workers lived in filthy conditions, contracted illnesses, suffered serious injuries, and worked from early morning until evening for little or no pay. Child and young adult workers missed school and college. Adults and older children were required to harvest a minimum of 30 kilograms (or 66 pounds) per day, with younger children required to meet slightly lower quotas.

Question 1

The NGO which published these findings is convinced that it has gathered enough proof of unacceptable human rights infringements in their substantive report on the hazelnut harvest situation in Despotania. They now turn to you – a human rights lawyer – seeking guidance in order to

- a) legally phrase their concerns, and to
- b) help the children and their families to get relief.

(the question continues on the next page)

How would you “translate” the issues outlined in the above article into human rights language (sub-question a), and discuss which course of action you would recommend them to pursue (sub-question b)?

Question 2

The CEO of an internationally well-known chocolate company which also partially purchases its hazelnuts in Despotania turns to you, stating that he was not aware of these working conditions since the company buys all its hazelnuts on the commodities exchange, but never directly from the producers or via the Despotanian government.

While the CEO obviously does not agree with the findings of the NGO, he was told by his compliance team that there is no legal duty to act on these infringements. Taking note of this, the CEO is still interested in your legal opinion as an external advisor, as he is not keen on having any kind of legal risk issues in the future.

- a) Do you agree with the company’s compliance department and its findings?
- b) Irrespective of your answer to the first question: What would be your recommendation(s) to the company if they want to be on the safe side in the future?

Question 3

The Despotanian government has been very unhappy with the ongoing criticism of the international community for a long time, feeling treated overly critical by mostly well-developed states. In the government’s view, much progress has been achieved in recent years to fulfil international human rights obligations, especially when it comes to issues related to child labour. Also, being a very poor country, Despotania stresses the fact that it is highly dependent on its hazelnut exports and simply cannot afford to cease with the practice of its peoples’ labour. The government argues that if they do, Despotanian hazelnut prices will no longer be competitive on the international markets, which in turn greatly increases poverty and consequently raises other, more severe, human rights issues.

Nevertheless, the government has agreed on a meeting with you – a legal officer of an international organization – on possible avenues to follow up on its recent domestic measures to decrease child labour. Since more straightforward criticism has not proven to be a very effective strategy in the past, you are focusing on more recent approaches in international human rights law.

Are there any internationally applied models, best practices, or even innovative instruments to follow up on this avenue that you could suggest? What could be done on both the domestic as well as the international level in your opinion, taking into account the difficult situation within Despotania? What legal grounds, if any, would be necessary for these? Please elaborate on these questions and consider your role as described above.