Part I

International Standard-Setting in Child Labor: Examining the Priorities of International Law
Chapter 2
Child Slavery and Slavery-Like Practices

A. Introduction

Among the worst forms of child labor that have been identified as priority areas by the International Labor Organization (ILO) are practices analogous to slavery, such as bonded labor, where workers, while not being owned by the employer, are so bound that they cannot voluntarily end the employment contract. ILO C 182, Article 3(a), includes as one of the worst forms of child labor, “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict.” This type of child labor is probably the clearest case of abusive child labor, and even those commentators who have been critical of the prioritization approach of C 182 have accepted the appropriateness of slavery-like practices as a target for child labor campaigns. However, it must be remembered that forced labor and slavery-like practices constitute serious human rights abuses whether they are committed against adults or children. Many of the widespread situations of bonded or forced labor affect both children and adults, often within the same families.

Bonded labor and similar practices, however, often arise from long-standing practices in many countries, and despite attempts by states, including their courts, to outlaw such practices, they continue. States usually have laws against such practices, but the problem is that of enforcement, or sometimes even acknowledging the continuing existence of slavery-like practices. This is the context in which the struggle against forced child labor must be understood.

In addition to C 182, there are several international instruments that ban slavery, slavery-like practices and forced labor. The historical evolution of international norms against slavery and forced labor will be examined in detail in this chapter. In addition, this chapter will examine the legal status of the prohibition on slavery as a customary norm of international law and possibly as an erga omnes obligation or a norm of jus cogens, and the implications for the elimination of child labor, particularly in light of the International Law Commission (ILC) Articles on State Responsibility. In particular, the scope of any custom-