

翻開「I Like」的背後-從繪本看全球人權與法律反思

相關法律條文說明

在臺灣，保障兒童免受不當勞動剝削、並確保其受教育（就學）權利的法律機制，主要由《勞動基準法》（簡稱勞基法）與《強迫入學條例》（配合 12 年國民基本教育政策）相互勾稽。

一、勞動基準法 (Labor Standards Act)

勞基法直接限制了招募童工的年齡，並對「微量工作」設有嚴格的就學保護前置條件，確保工作不會剝奪孩子的受教權。

1. 禁用未滿 15 歲之童工（工作限制）

勞基法第 44 條與第 45 條明確規定，原則上雇主不得僱用未滿 15 歲的兒童。即使在特殊情況下（如童星、廣告拍攝）需要提供勞務，也必須經主管機關許可，且絕對不能影響其義務教育的進行。

● 第 45 條第 1 項、第 2 項節錄

「雇主不得僱用未滿十五歲之人從事工作。但國民中學畢業或經主管機關許可工作者，不在此限。前項許可準則，由中央主管機關定之；其許可應考慮工作性質及受僱工作之場所是否不影響其身心健康及義務教育之實施。」

"An employer shall not employ any person under the age of fifteen to work; provided, however, that this restriction shall not apply to those who have graduated from junior high school or whose work has been authorized by the competent authority. The rules governing the authorization referred to in the preceding paragraph shall be prescribed by the Central Competent Authority; such authorization shall consider **whether the nature of the work and the workplace would affect the physical and mental health of the individual as well as the implementation of their compulsory education.**"

2. 例外工作之受教權保障（勞動部許可準則）

依據上述第 45 條授權制定的《未滿十五歲工作者工作時間福利及許可辦法》，更直接落實了「上課時間不准工作」的原則：

● 第 7 條第 1 款

「未滿十五歲工作者之工作時間，應符合下列規定：一、不得於學校上課時間工作。」

"The working hours of workers under the age of fifteen shall comply with the following provisions: 1. **Shall not work during school class hours.**"

二、12 年國教與強迫入學政策 (12-Year Compulsory Education & Forced Schooling)

雖然「12 年國教」將義務教育延長至高中職階段，但憲法與《教育基本法》保障的「強迫義務教育」（處罰不入學者）目前仍維持在國民教育階段（國小至國中，即 6 至 15 歲）。

《強迫入學條例》是防範兒童在義務教育期間流失、淪為童工的最關鍵行政防線。

1. 家長與監護人之強迫入學義務

家長若讓學齡兒童去工作而未上學，將面臨罰鍰等行政強制處分。

● 《強迫入學條例》第 9 條第 1 項

「凡應入學而未入學、已入學而中途輟學或長期缺課之適齡國民，學校應報請強迫入學委員會，派員督促其入學、復學。前項適齡國民，其父母或監護人經警告並限期入學、復學，無正當理由仍不遵照辦理者，由鄉（鎮、市、區）公所處新臺幣三百元以下罰鍰，並限期入學、復學；如仍不遵照辦理者，得連續處罰至入學、復學為止。」

"For school-age citizens who ought to enroll in school but have not, or who have enrolled but dropped out or been long-term absent, the school shall report them to the Compulsory School Attendance Committee to dispatch personnel to urge them to enroll or return to school. If the parents or guardians of such school-age citizens, having been warned and given a deadline to enroll or return to school, still fail to comply without justifiable reasons, they shall be fined not more than 300 New Taiwan Dollars by the township (town, city, district) office, and a new deadline shall be set; if they still fail to comply, successive fines may be imposed until the child enrolls or returns to school."

2. 任何人不得阻撓適齡兒童就學

若有雇主非法僱用、或任何人阻礙兒童上課，該條例同樣設有處罰規定：

● 《強迫入學條例》第 15 條

「適齡國民之父母或監護人，有阻礙適齡國民入學、復學之情事者，由強迫入學委員會會同派代所或警察機關強制其子女入學、復學。任何人不得僱用或留宿應入學而未入學、已入學而中途輟學之適齡國民。其有僱用或留宿者，由強迫入學委員會函送主管機關依勞動基準法等相關法令處罰。」

"Where parents or guardians of school-age citizens obstruct the enrollment or return to school of such citizens, the Compulsory School Attendance Committee, in conjunction with the local police, shall compel their children to enroll or return to school. No person shall employ or harbor school-age citizens who ought to enroll but have not, or who have enrolled but dropped out. Those who employ or harbor such citizens shall be referred by the Compulsory School Attendance Committee to the competent authorities for punishment in accordance with the Labor Standards Act and other relevant laws."

💡 總結防護網運作機制

1. 年齡防線 (15 歲)：15 歲以下兒童原則上禁止工作（勞基法第 45 條）。
2. 上課防線：即使取得特殊許可，上課時間也絕對禁止工作（許可辦法第 7 條）。
3. 強迫入學防線：如果家長讓孩子輟學去工作，或雇主僱用沒上學的國中小學生，將會被依法強制送回學校，且雇主會面臨高額罰鍰（強迫入學條例第 15 條 + 勞基法罰則）。