



Child Labour and Impunity

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Introduction:

The United Nations General Assembly declared 2021 to be the Year of the Elimination of Child Labour, as a reminder to Member States of their commitment to target 8.7 of the Sustainable Development Goals, i.e.: “Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.”

Despite international efforts to eliminate child labour and the local laws of countries, according to the global estimates for the year 2021 on child labour by the International Labour Organization and UNICEF, there are 160 million children in child labour, nearly 10% of the world’s children. The number of children has increased by 8.4 million, which is the first increase in 20 years. The crisis is expected to worsen with another 8.9 million children from the age of five being forced to work. The high rates of child labour in the world are due to impunity granted to the violators.

Seventy percent of child labour is in the agricultural industry, more than two-thirds of which is with the family. Child labour is increasingly concentrated in Sub-Saharan Africa, where child labour in the region now accounts for more of the total number of children in labour than the rest of the world combined.

This paper discusses the impunity of the crime of child labour. It begins by providing the definition of child labour and its forms, clarifies the reasons for the use of children in work and children's tendency to work, and presents the basic international conventions on child labour. The policy paper also discusses the phenomenon of impunity and its causes in child labour, and makes some recommendations in this regard.



First: Child Labour

1- Definition:

Defining child labour is not simple because it includes three hard-to-define concepts, namely child, work and labour. Childhood can be defined by age, but societies differ about ages, with the onset of puberty occurring at different ages for different people. The United Nations Convention on the Rights of the Child defines a “child” as one under eighteen years of age, while ILO Convention No. 138, defines it to be under fifteen years.

The definition of child labour varies between societies, where some distinguish between child work and child labour. Child work is considered part of training children to be responsible adults, while child labour is considered exploitative. They argue that not all work done by children can harm their health or be considered exploitative. It depends on the type of work they do and the number of hours they work. It also depends on the working conditions or environment. According to ILO reports, if the work does not hinder the education of children or does not affect their physical and mental health, it is not classified as child labour. However, other studies confirm that any work done by children is considered harmful. According to them, working outside the home usually exposes children to environmental risks that may affect their health and safety. Thus, any work done by children outside the home is classified as child labour.

2- Forms of Child Labour:

According to the International Labour Organization and UNICEF, there are eight main forms of child labour:

- A. Hazardous Working Conditions:** Although children are exposed to the same risks as adults when working in dangerous conditions, the impact of these risks multiplies on children as a result of the difference and relative weakness of their bodies and psyches. The health consequences of work cause irreparable damage to their physical and psychological development and prevent them from leading a normal adult life. Article 3 of ILO



Recommendation No. 190 provides guidance to governments on certain hazardous work activities that should be prohibited: “Work which exposes children to physical, psychological or sexual abuse; Work underground, underwater, at dangerous heights or in confined spaces; Work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads; Work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health; Work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.”

- B. Domestic Service:** As a result of the hidden and informal nature of this work, children are more vulnerable to exploitation and physical and psychological abuse. They work inside homes in isolation for long and hard-working hours. Most of them are not paid, but actually, work in exchange for substandard housing or food.

- C. Street Children:** This is the most visible form of child labour. Children are forced to roam the streets to sell goods, shine shoes, wash cars, or beg. Sometimes these children are running away from their homes, or forced to work to support their families. Some of them are also victims of kidnapping and human trafficking.

- D. The Informal Economy:** More children work in it. They get exploited more easily due to being outside legal and regulatory frameworks, making this form the most difficult challenge to eradicate child labour.

- E. Child Slavery:** Some children work for free in a form of servitude. Bonded labour occurs in industries such as agriculture, carpets, textiles, quarries, and brick-making. One of the most common forms of servitude is family servitude, where children work to help pay off a loan or other obligations of the family. The creditor often manipulates the situation in such a way that it is impossible for the family to repay the loan.



- F. Trafficking and Commercial Sexual Exploitation:** Children are trafficked for prostitution, beggary, lures, work on construction sites, convenience stores, factories, and domestic service. Victims are subjected to severe physical, psychological and emotional abuse with life-threatening consequences.

- G. Armed Conflict:** Children are exploited and recruited during armed conflict by state or non-state groups. They are forced to participate in military activities as soldiers or to work as porters, messengers, cooks, or other jobs.

- H. Illicit Activities:** Children are more likely to be involved in drug production and trafficking. They are exposed to physical and psychological violence. They are also more likely to suffer from depression and drug and alcohol abuse.

3- Why Children are used in Labour:

Children can be used by businesses in order to keep their costs low, as children are not paid like adults. They can be considered easier to control. Moreover, they are less likely to demand higher wages or better working conditions because they do not know their rights. As a result of lower costs, the business owner gets higher profits, as he is able to sell the product at a lower price which makes it more attractive to consumers.

4- Why Children head to Labour:

- A. Poverty:** There are two types of poverty: Subsistence poverty, which is when the family income is less than a certain level, which makes it impossible for the family to meet the basic needs including food, shelter, safe drinking water, education and health care. Thus, the family resorts to child labour. On the other hand, there is poverty of opportunity. This refers to the situation where families may not face poverty in terms of income, but in the form of having a lower return on education, which translates into lower wages for adults. If the returns to education are low enough, families of lower status will choose to send their children to work, because the wage earned as a



skilled worker will not be high enough to offset the loss of income from giving up child labour.

B. Customs and Traditions: There are some opinions stressing the importance of work in developing children's skills and refining their personality. The traditions that encourage children to follow in the footsteps of their parents in a certain work is also spread, and that they need to learn and practice it since childhood. Moreover, some poor families fall into the debt trap because of customs and traditions that place a financial burden on them to complete social events. This pushes the children of these families to work in order to withstand these social pressures.

In addition, girls, in particular, suffer. This is due to the widespread belief that girls' education is not important, which leads families to take them out of schools at an early age, and push them to work at home. Moreover, there is a lack of awareness from parents and children themselves of the danger of child labour at an early age, on their future and conflicting with their interests.

C. Family situation: The increasing number of family members makes it difficult to meet the basic needs of all individuals due to the insufficient income of parents. This forces families to send children to work. Also, orphan children are forced to work to provide for their basic needs to survive, especially in countries that do not provide appropriate social care for orphans.

D. Domestic violence: Some children who suffer from domestic violence are forced to drop out of school and go to work, either by coercion by their parents. They might also choose to do so for the purpose of collecting money to escape the violence they are exposed to.

E. Education: Sometimes, children do not have the luxury of choosing between education or work, as the choice of education is not available. This could be due to the lack of a sufficient number of schools, or the inability of parents to bear the costs of education. Some countries suffer from poor quality of education, as there is no link between what is taught in schools and the



practical reality. Thus, it is of no use in their view. In fact, sending them to work is the way to prepare them better for the future.

5. International Conventions:

The issue of child labour is guided by three major international Conventions:

- 1. ILO Convention No. 138 on the minimum age of employment (1973):** *“The aim of the Convention is the effective abolition of child labour by requiring countries to establish a minimum age for entry into work or employment; and establish national policies for the elimination of child labour.”*
- 2. ILO Convention No. 182 on the Worst Forms of Child Labour (1999):** The Convention establishes priority for the elimination without delay of the worst forms of child labour, in accordance with article 3 of the Convention: *“All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”*
- 3. United Nations Convention on the Rights of the Child (1989):** Article (32) of the Convention contains *“the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.”*



Second: Impunity

Impunity means “the impossibility, de jure or de facto, of bringing the perpetrators of violations to account- whether in criminal, civil, administrative or disciplinary proceedings - since they are not subject to any inquiry that might lead to their being accused, arrested, tried and, if found guilty, sentenced to appropriate penalties”. Impunity results from the failure of states to fulfil their obligations to investigate violations; provide protection to victims and ensure that they receive reparations for the damages they have suffered; guarantee the right of victims and the public to know the truth about violations; take effective steps to prevent the recurrence of violations.

Impunity is particularly common in countries that lack traditions of the rule of law, suffer from corruption or have well-established patronage systems, or where the judiciary is weak or members of the security forces are protected by special jurisdictions or immunities. Impunity in itself constitutes a denial of the victims' right to justice and redress. It also discourages victims from going to the police or seeking help, which means that they are usually stuck in a precarious situation with no way out.

Child Labour

These risks are naturally increased when the victims are children, who are often unaware that they are being exploited and abused as this is the only way of life, they find themselves in. Impunity for the crime of child labour can be for various reasons:

1- Lack of Effective Laws:

Although there are legal texts in all countries regarding child labour, some of them are ineffective, as they contain loopholes and legal exemptions. For example, Bolivia has the lowest age for child labour in the world: ten years old. At such a young age, children can work legally for themselves or their families. Once they reach the age of 12, they can work for others. This legalizes child labour rather than criminalizing and prohibiting it.



Special exemptions are also provided for some sectors, such as the agricultural sector, which is the largest sector in which children work. American law provides that children under 12 years of age may work with the consent of one of them, on a farm exempt from the provisions of the federal minimum wage. It also includes exemptions for parents. Outside of agriculture, minors under the age of 16 who work for a company owned or managed by their parents or guardians, can work at any time of the day and for any number of hours. Not only do most child labour laws not apply to parents if they employ their own children, but they may also qualify for special tax breaks for employing their children.

Some countries' laws also contain important contradictions between laws regulating the minimum age for admission to work and those dealing with the age group for compulsory education. Of the 170 ILO member states that have ratified ILO Convention No. 138, 44 have set an age for completing compulsory education that is higher than the minimum age for admission to work they set at the time of ratification. This means that children in these countries are allowed to enter work before they are allowed to leave school.

2- Weak Law Enforcement and Judicial Authorities:

Laws alone are not enough if they are not accompanied by sufficient capacity to enforce labour law and criminal law. Labour administrations and labour inspection offices are often underfunded and understaffed. Inspections consume a lot of available resources, so they are not done adequately or enough, leaving child workers without protection and giving impunity to the violators.

Moreover, in light of the rapid development of non-standard forms of employment, and the introduction of new technologies, which allow new business models, the legal and executive authority cannot keep pace with its limited resources. For example, work via the Internet has no supervision or inspection. In addition to that, the vast majority of child labour exists in the informal economy, which places it outside the scope of government inspection systems.



3- Lack of Political or Social will

In some societies, there is a belief that child labour is important and necessary, regardless of the law. This leads the government to not work to implement child labour laws. In some cases, it even tries to change the already existent laws. In the United States, in Wisconsin, Republican senators approved a bill allowing children under the age of 16 to work 18 hours in a school week. Also, former Speaker of the United States House of Representatives, Newt Gingrich spoke during his 2011 presidential campaign about his solution to lift children out of poverty, which aimed at easing the, according to him "really stupid" child labour laws. He also added the proposal that schools expel cleaners and pay local students to replace them. In addition, a Senate bill was introduced in 2011 that would remove the ban on the employment of children under 14. Another member of the parliament said that the task of the Ministry of Labour to reduce hazardous child labour on farms would eventually make children less "active."

Conclusion and Recommendations:

Child labour is one of the main violations of human rights that exist in all countries. It is also one of the most important violations that must be eradicated because its victims are the most vulnerable and defenceless. It also has negative consequences and impacts on the future. Unfortunately, we find obstacles ranging from the difficulty of definition, to the diversity of its forms from hazardous working conditions, domestic service, street children, the informal economy, child slavery, trafficking and commercial sexual exploitation, armed conflict, and illicit activities. There are many reasons why companies use child labour to reduce costs. Children also tend to work due to factors beyond their control, such as poverty, customs and traditions, family situation, domestic violence, and education.

The phenomenon of impunity is widespread, especially with regard to child labour, despite the existence of local and international laws, and this is due to the presence of many loopholes, exemptions and legal contradictions; Weak child labour law enforcement authorities because of lack of resources; Lack of social and political will.



The report provides the following recommendations to effectively eliminate the **child labour** crisis:

- A.** The reasons behind children’s tendency to work must be addressed and solved, by:
- 1- Working to reduce the subsistence poverty rate.
 - 2- Strengthening the educational system.
 - 3- Increasing the number of schools.
 - 4- Ensuring that children have access to education that is related to working life.
 - 5- Providing social care for orphans.
 - 6- Providing protection for children suffering from domestic violence.
- B.** The phenomenon of **impunity** must be confronted by:
- 1- Allocating sufficient resources to inspection offices and labour offices.
 - 2- Developing the inspection system.
 - 3- Working to bridge the gaps and cancel the legal exemptions that are being exploited.
 - 4- Increasing societal awareness about the dangers of work on children, and the importance of education in building their independence, whether they are boys or girls.
 - 5- Increasing government accountability on child labour.