

## **Socio-Legal Analysis of the Phenomenon of Child Labor**

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### **Abstract:**

This research paper aims to provide both a sociological and legal analysis of the phenomenon of child labor, which is considered an old phenomenon in terms of its origins but a contemporary one in terms of the attention it receives. It is an issue that warrants concern and study because it concerns a significant social group in shaping the future of nations, namely children. This phenomenon has come to threaten children's health, education, and social well-being, thereby posing a danger to both the present and future of societies. Child labor has become a concern for the international community due to its negative consequences for children and society in general, particularly various forms of exploitation. It has also prompted efforts to develop mechanisms aimed at mitigating its severity or eliminating it altogether, whether through the enactment of domestic laws regulating this form of labor or through the ratification of international conventions that oblige states to implement relevant provisions. Such efforts seek to transform child labor from an informal practice into a formally regulated one.

**Keywords:** Sociological analysis; Legal analysis; Labor; Child; Child labor.

### **Introduction**

Child labor is among the global social phenomena generated by these transformations. It is not confined to one society alone but has extended even to developed societies. This phenomenon constitutes a real problem due to its widespread and unlawful prevalence, which may hinder a child's education and adversely affect their intellectual, physical, and psychological development. This occurs despite official efforts aimed at promoting child welfare, ensuring their protection, and safeguarding their rights.

The informal spread of child labor raises several questions, particularly regarding the legal minimum age for employment and the protection of children's social rights, such as safety from occupational accidents, health preservation, protection from hazardous work, regulation of working hours, and entitlement to wages. More importantly, it highlights the difficulty of confronting employers' abuse of authority over working children and their employment in tasks incompatible with their abilities, making them vulnerable to various forms of exploitation. It also underscores the challenges faced by official bodies in monitoring such practices. The widespread nature of this phenomenon has resulted in the absence of accurate statistics reflecting the actual number of children participating in the labor market, although some estimates are available.

### **I. Definition of Child Labor**

#### **Definition of the Child**

Opinions differ regarding the definition of the concept of the child, particularly concerning the stages encompassed by this concept, the beginning and end of childhood, and the age at which a person is considered a child.

- **Linguistically:** According to Lisan al-Arab by Ibn Manzur, a child (ṭifl) refers to “that which is tender and delicate in everything

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meaning “the small or young of everything”

<sup>2</sup>. It is also defined as “a newborn”<sup>3</sup>. The feminine form is ṭiflah, the plural is atfāl (children), and the verbal noun is tufūlah (childhood), with no corresponding verb form. The dictionary further defines a child as “a boy from the moment he emerges from his mother's womb until he reaches puberty”<sup>4</sup>.

- **Terminologically:** Some scholars define childhood as “the stage attributed to a human being from birth until reaching puberty”<sup>5</sup>, while others describe it as “the age period extending from birth to the stage of puberty”<sup>6</sup>. Numerous and divergent views have emerged regarding the concept of child labor, creating difficulties in establishing a single, precise, and universally accepted definition. The following presents some of these definitions.
- **Linguistically:** The term child labor derives from the word labor (‘amālah), which means “the worker's occupation, wage, and means of livelihood”<sup>7</sup>. In governmental statistical usage, labor refers to “the total number of individuals engaged in work for which they receive wages; such employment may be temporary, permanent, or casual”<sup>8</sup>, provided that the individual is employed in a specific job at the time the statistics are conducted. As for the term children, the singular form of which is child, it has been discussed previously.
- **Terminologically:** Childhood is considered an early stage in the human life cycle characterized by rapid physical growth. This has attracted increasing attention from specialists such as sociologists, psychologists, and others, who regard it as the foundation upon which the child's personality is formed. However, this stage is confronted with several obstacles, among them the child's entry into the labor market, a phenomenon commonly referred to as child labor. It is considered a problem that has attracted the concern of many scholars and specialists because it affects an innocent segment of society, one often regarded as the men of the future and the builders of life. Consequently, child labor continues to record increasing rates.

### The Origins and Development of Child Labor

The phenomenon of child labor is not a recent one; rather, its roots extend back to very ancient times when societies were predominantly agrarian in nature. During that period, what was known as the household economic system prevailed, whereby various activities, whether agricultural or artisanal, were carried out within the family or household. Children were engaged in certain domestic and agricultural tasks, such as cultivating land, accompanying adults to fields and farms, caring for animals, and assisting in craft workshops involving trade, blacksmithing, spinning, weaving, and other activities. This was largely due to the absence of other occupations or concerns for children. Even formal education remained restricted to a

specific segment of society, namely the children of wealthy families rather than those of the poor.

Thus, “childhood among them lasted only a few years, as the child was quickly regarded as a young adult”<sup>9</sup>. Consequently, child labor was intended to equip children with occupations transmitted from one generation to another and to integrate them into public life through participation in economic activities. This pattern of child labor, particularly domestic child labor, was especially prevalent during the Middle Ages, a period characterized by the existence of the household craft system.

Nevertheless, this did not prevent the presence of children working outside their families as wage laborers or apprentices learning trades. They often performed difficult and strenuous tasks for very low wages because they represented a source of cheap labor. Girls commonly worked as domestic servants, while boys were employed in fields, farms, and craft workshops.<sup>10</sup> In this context, children were frequently sent from rural areas to cities.

As child labor outside the family framework became more widespread, the responsible authorities compelled religious institutions to issue a number of regulations, leading the phenomenon to assume a more organized form, particularly as children increasingly worked as hired laborers. Consequently, child employment became permissible only through contracts lasting three years, and children under the age of eleven were accepted. Moreover, employment required the child to reside with the family for whom he or she worked.<sup>11</sup> These children received very low wages on the grounds that they were learning a trade and acquiring experience.

During the same period the Middle Ages another form of child labor emerged, differing in social status from domestic child labor. It involved the employment of abandoned and lost children. Europe witnessed large numbers of such children toward the end of the seventeenth century and the beginning of the eighteenth century, with estimates reaching approximately 1,700 lost children.<sup>12</sup> This number increased dramatically, reaching about 25,000 lost children by 1845.

The relevant authorities, including churches and governments, addressed these social situations by placing such children with rural families so that they could support themselves through work. These families would adopt the children once they had reached seven or ten years of age.

In addition, orphaned children constituted a labor force supplied to factories by governments. Factories also gathered abandoned children and children from poor families, ostensibly to assist them while simultaneously benefiting from their labor. In some cases, children between five and six years of age were employed and required to work for more than twelve hours per day.<sup>13</sup> Accordingly, societies during this period did not view child labor as a form of exploitation. Rather, it was considered a source of social stability, preventing children from deviating from acceptable behavior and enabling them to assist their impoverished families. This perception persisted despite the use of adopted children for begging and the extremely low wages they received.

At the beginning of the nineteenth century, which witnessed the widespread expansion of industrialization across European countries and later the rest of the world as a result of the Industrial Revolution, major changes occurred due to mechanized production and the use of

energy, particularly steam power. The world increasingly operated according to the rhythm of modern machinery. Because of the shortage of labor needed to operate these machines, all social groups men, women, and children were drawn into the workforce. These groups faced numerous social problems generated by the Industrial Revolution, most notably poverty resulting from low wages. Employers deliberately maintained low wages to maximize profits while minimizing costs. This strategy was further reinforced through the employment of children, whose labor was significantly cheaper. Consequently, the widespread poverty caused by inadequate wages compelled families to send all members, including children, into the labor market, as they depended on their earnings.

Under these circumstances, child labor expanded and became increasingly preferred to adult labor and, in many cases, a competitor to it. Children worked in various occupations, both agricultural and industrial, including cotton plantations, embroidery and sewing factories, and textile industries. They became a significant component of the labor force. For example, children between the ages of seven and twelve constituted one-third of the labor force in the United States, while by the end of the nineteenth century approximately one-fifth of children aged between ten and sixteen were employed in the industrial sector.<sup>14</sup>

However, the dominance of material interests among employers led to the exploitation of children in performing all kinds of work, including hazardous tasks that were unsuitable for their young age. In addition to receiving meager wages on the pretext that they exerted less effort because of their youth, children were exposed to various diseases resulting from industrial environments, particularly factories producing chemical substances, as well as occupational accidents. In this sense, the Industrial Revolution constituted a turning point in the history of child labor, as it revealed the problem in its true dimensions.

The entry of children into industrial employment transformed society's perception of child labor. It became a subject of concern and evaluation from social, economic, health, and political perspectives due to the severe exploitation experienced by this group, including excessive working hours exceeding twelve hours per day, low wages, and employment in mines and factories producing harmful chemicals. Consequently, societal perceptions of child labor changed as the phenomenon shifted from a hidden practice to a visible and publicly recognized issue.

From this period onward, specifically beginning in 1802, authorities undertook efforts to regulate child labor. This was reflected in the enactment of numerous laws addressing minimum working age requirements, limiting excessively long working hours, and prohibiting the employment of children in factories and mines. Such measures were necessary because authorities themselves had contributed to the expansion of the phenomenon by supplying factories with orphaned, abandoned, and impoverished children. Examples of these legislative measures include the 1813 law prohibiting children under ten years of age from entering mining tunnels, the 1841 law prohibiting the employment of children in factories, and the 1878 law establishing ten years as the minimum age for employment.

This situation continued until the establishment of the International Labour Organization (ILO) in 1919, which assumed responsibility for regulating labor in general and child labor in particular. Consequently, child labor acquired an international and official legal dimension

through international conventions and recommendations, including instruments such as the Convention on the Rights of the Child and the Convention concerning the Worst Forms of Child Labour. Despite these efforts, child labor remains a major problem confronting societies to this day and, in many respects, has become more pressing and clearly defined than in the past, particularly because it affects countries throughout the world.

It can therefore be concluded that child labor was not initially regarded as an issue requiring special attention when it was practiced within the family framework. However, once children began working as hired laborers for employers characterized by greed and the pursuit of profit, perceptions of the phenomenon changed, and it came to be viewed as a social problem requiring effective solutions for its eradication.

### **III. The Legal Regulation of the Phenomenon of Child Labor**

The enactment of legislation regulating the field of labor and governing professional relations was the result of the suffering experienced by the working class in its various categories due to exploitation and poor material, professional, and social conditions. These circumstances were largely caused by unfair practices on the part of employers, including excessively long working hours and very low wages, as employers sought to maximize productivity at the lowest possible cost, often at the expense of workers' earnings.

These conditions prompted workers to demand improvements in working conditions and wage increases through labor associations and trade unions. This eventually evolved into a prolonged conflict between workers and employers, manifested in various forms such as strikes, the destruction of production equipment, and factory closures. Consequently, state intervention became necessary to regulate labor relations.

The first social law enacted in France on March 22, 1841, concerned child labor. It established a minimum working age of eight years and prohibited the employment of children at night.<sup>15</sup> This legal text defined the framework within which this category of workers could be employed. It was followed by numerous legislative initiatives aimed at regulating labor relations. However, the organization of labor and the protection of various categories of workers gained greater significance with the emergence of the International Labour Organization (ILO) and the increasing attention devoted by modern legislation to human rights in general and labor rights in particular.

Accordingly, child labor became an essential component of the broader field of human rights. Various international instruments addressed this issue through provisions, conventions, and recommendations that served as guiding principles for the regulation of child labor.

#### **1. International Conventions**

Official international concern with child labor began with the establishment of the International Labour Organization in 1919. This marked a transition toward the regulation of child labor by specialized international bodies, despite the existence of earlier initiatives. The first efforts to address child labor at the international level date back to the nineteenth century, particularly the International Conference on Labor Regulation held in Berlin in 1890, whose resolutions constituted the foundation of subsequent international labor standards in this field.<sup>16</sup>

These resolutions provided for the regulation of the employment of children under the age of twelve and prohibited their employment in industrial establishments and during night work.

Similar provisions applied to workers under the age of sixteen, while the daily working period for children under fourteen was limited to six hours.

The International Labour Organization further addressed child labor by defining the occupations in which children could be employed, regulating working hours and wages, and ensuring healthcare and occupational safety according to the nature of the work performed. Simultaneously, it sought to establish harmonized legal standards among different countries. Among the conventions issued by the ILO are the following:

**Convention No. 5 of 1919** concerned the minimum age for admission of young persons to industrial employment. This was followed by numerous conventions establishing minimum ages for employment in various economic sectors, including maritime work, agriculture, industry, non-industrial occupations, fishing, and underground work.<sup>17</sup> Examples include:

**Convention No. 2 of 1921** concerning Maritime Employment, which prohibited the employment of children under fourteen years of age on board ships, except vessels operated exclusively by members of the child's family. This convention was later amended by Convention No. 58 of 1936, which raised the minimum age for maritime employment to fifteen years.

**Convention No. 10 of 1921** concerning Agricultural Employment, which stipulated that children under fourteen years of age could not be employed in agricultural establishments, whether public or private. It also prohibited their employment during school hours when such work would interfere with their regular attendance at school.

**Convention No. 59 of 1937 and Convention No. 90 of 1948** concerning Industrial Employment, which prohibited the employment of children and young persons under eighteen years of age for more than seven hours per day and prohibited their engagement in night work within industrial sectors.

**Convention No. 60 of 1937** concerning Non-Industrial Employment, which provided that:

- Children under fifteen years of age should not generally be employed.
- Children under fourteen years of age may be engaged in light work outside school hours.
- Working time must not exceed two hours per day, and employment during holidays, public holidays, and night hours is prohibited.
- A medical examination must be conducted before employment to verify the child's fitness for work, with periodic medical examinations thereafter.

**Convention No. 123 of 1965**, which prohibited the employment of children under sixteen years of age in mines, quarries, and underground work.

Subsequently, efforts were undertaken to establish a comprehensive legal framework governing child labor. This was reflected in the Convention on the Rights of the Child (1989), which aimed to establish standards ensuring that children work under appropriate conditions while safeguarding their rights and taking into account their physical and mental capacities. In this regard, Article 32 of the Convention provides that:

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous, interfere with the child's education, or be harmful to the child's health or physical, mental, spiritual, moral, or social development.

2. States Parties shall take legislative, administrative, social, and educational measures to ensure the implementation of this provision. In particular, and having regard to relevant international instruments, States Parties shall:

- Establish a minimum age or minimum ages for admission to employment;
- Provide for appropriate regulation of working hours and conditions of employment;
- Provide for appropriate penalties or other sanctions to ensure the effective enforcement of this article.<sup>18</sup>

It should be noted that Algeria ratified this Convention on 19 December 1992.<sup>19</sup>

The efforts of the International Labour Organization continued until the adoption of Convention No. 182 of 1999 concerning the Worst Forms of Child Labour, which applies to all persons under eighteen years of age. The Convention identifies the worst forms of child labor as including all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage, forced or compulsory labor, including forced recruitment of children for use in armed conflict, the use of children in prostitution, pornography, or pornographic performances, and the use, procurement, or offering of a child for illicit activities, particularly the production and trafficking of drugs, as well as work likely to harm the health, safety, or morals of children.<sup>20</sup>

These international conventions therefore constitute the principal framework for regulating child labor and reflect international efforts aimed at developing mechanisms and means to reduce or eliminate the phenomenon.

## **2. Arab Conventions**

Similar to the International Labour Organization, several regional organizations have addressed labor issues, including the Arab Labour Organization Arab Labour Organization, which focuses on labor and workers' issues at the Arab regional level. Its concern with regulating child labor was reflected in the adoption of four conventions, applicable within the limits permitted by the legislation of the states that ratified them.

### **Arab Convention No. 1 of 1966 Concerning Labour Standards**

This Convention addresses child and juvenile labor in Articles 52 to 64. Its principal provisions include:

- Requiring each state to specify in its legislation the occupations in which children may not be employed before reaching a prescribed age.
- Prohibiting employment in industry before the age of fifteen, except for apprentices and trainees.
- Prohibiting the employment of juveniles under seventeen years of age in hazardous or harmful industries.
- Prohibiting the employment of persons under fifteen years of age for more than six hours per day, including a rest period of at least one hour.
- Prohibiting continuous work exceeding four consecutive hours, overtime work, and night work.
- Requiring medical examinations before employment and periodic examinations thereafter.

- Granting annual leave to workers under seventeen years of age exceeding that granted to adult workers, with such leave neither divisible nor postponable.
- Guaranteeing appropriate remuneration for children employed under apprenticeship contracts and counting training hours as part of regular working hours.

#### **Arab Convention No. 2 of 1966 Concerning Occupational Safety and Health**

Article 6 of this Convention provides that:

- Young persons of both sexes may not be employed in industrial work before reaching fifteen years of age, except apprentices.
- Young persons of both sexes under eighteen years of age may not be employed in hazardous or harmful industries, as defined by the legislation, regulations, and decisions of each state.

#### **Arab Convention No. 6 of 1967 Concerning Revised Labour Standards**

This Convention reaffirmed the principles and rules established by Convention No. 1.

#### **Arab Convention No. 12 of 1980 Concerning Agricultural Workers**

Article 5 provides that each state must determine the conditions governing child labor in the agricultural sector, including regulations relating to working hours, leave, wages, and other employment conditions.

The matter does not stop at the adoption of these conventions. Numerous Arab states have also ratified international conventions and instruments addressing child labor, which constitute important standards and mechanisms for combating the phenomenon. One notable example is ILO Convention No. 182 of 1999 concerning the Prohibition of the Worst Forms of Child Labour, which has been ratified by several Arab states, including Algeria, Jordan, Kuwait, Libya, Morocco, Qatar, Tunisia, Yemen, United Arab Emirates, and Bahrain.

Based on the foregoing, the Arab Labour Organization has sought to define the conditions governing child labor and to specify the rights enjoyed by children in employment. At the same time, it has left Arab states with the discretion to determine the precise content of these conditions particularly regarding minimum age requirements, working hours, leave entitlements, and wages in accordance with their national legislation. This approach reflects an effort to achieve harmonized legislative standards across Arab countries, a goal that was among the issues addressed at the Arab Labour Conference held in 1996.

#### **IV. Child Labor Legislation in Algeria**

The Algerian legislator has given considerable attention to regulating the employment of minors and has sought to align national legislation with international standards, whether in determining the minimum working age or in establishing the conditions and regulations governing employment. Furthermore, the legislator has made the protection of children a matter of public order by stipulating that the laws applicable to civil and criminal liability concerning minors are rules of public law. This clearly demonstrates the significant concern of the Algerian legislator for the special protection afforded to this category of workers.<sup>21</sup>

In this regard, Algerian law sets the minimum age for employment at 16 years. An exception is made for children working under apprenticeship contracts, and the consent of the child's legal guardian is considered an essential requirement. Article 15 of Law No. 90-11 on Labor Relations, dated 21 April 1990, provides that: "Under no circumstances may the minimum age

for employment be less than 16 years, except in cases falling within the framework of apprenticeship contracts established in accordance with the applicable legislation and regulations. A minor may only be employed with the authorization of his or her legal guardian.”<sup>22</sup>

The same article further stipulates that: “Children may not be employed in hazardous work or in occupations where a lack of hygiene may jeopardize their health or adversely affect their morals. In addition, minor workers of either sex under the age of 19 years may not be employed in any form of night work.”<sup>23</sup>

The law has also addressed issues relating to occupational health and safety in the workplace and the consideration of working conditions for employees in general and minors in particular. This is reflected in the provisions of Law No. 88-07 of 6 January 1988 concerning occupational health prevention, safety, and occupational medicine, as well as Executive Decree No. 91-05 of 19 January 1991 concerning the general rules for health and safety protection applicable in workplaces.<sup>24</sup>

## **V. Conclusion**

It can be concluded that child labor is one of the most complex problems facing the world today. It is closely linked to the social and economic crises affecting society as a whole, the repercussions of which are reflected within families that care for these children. In turn, children are affected by the various changes occurring within the family environment, leading many of them to enter the labor market at an early age.

This situation persists despite the existence of numerous instruments and legislative frameworks regulating child labor, whether in the form of international conventions, regional agreements, or national laws. These legal instruments aim to protect children from anything that may hinder their education and their physical, intellectual, and psychological development. Accordingly, they prohibit the employment of children below a specified age, often linking the minimum working age to the age of compulsory education in order to guarantee a certain level of educational attainment. They also establish progressively higher age thresholds depending on the nature of the work performed and its suitability to the child’s abilities. The growing international concern with regulating child labor further reflects the widespread nature of this phenomenon and the serious forms it can take. Consequently, ongoing efforts continue to focus on developing mechanisms to reduce and ultimately eliminate child labor.

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