



# International Labour Law. International Protection of Youth and Children<sup>1</sup>

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**Abstract** *The evolution of human rights, a process closely linked to human emancipation, is reflected, among other things, in the protection of workers by International Labour Law. In this case, any failure to respect it is also a failure to ensure the protection of human rights. In this paper, the protection of children and young people is the main topic addressed and is analysed from a legal and practical perspective, at international and national level, in the context of the exploitation of their labour. In this regard, when discussing about Labour Law, we must start from the terminological analysis of the term "work", with the development of the law in the late 19th and early 20th century, leading to the analysis of the legal framework. Thus, the exploitation of children at work is closely linked to other challenges that the society to which they belong is facing, such as poverty, high birth rate, poor access to education and health etc., and their exploitation impacts on the development and future of children and youth. Therefore, this paper analyses the main challenges and issues that International Labour Law faces, in the context of the protection of children and young people.*

**Keywords:** *International Labour Law, transnational labour law, child protection, human rights, child labour exploitation*

**JEL:** K31, K38

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## 1. Introductory Aspects in International Labour Law

Derived from the Slavic language (monka), the term "work" translates to "suffering" (Popescu, 2022). In Romanian, it has acquired different meanings. On the one hand, it refers to productive activity, and on the other hand, to the result of this activity (what is obtained as a result of the work) (Țiclea, 2013). The concept of work has changed throughout history in response to changes in living conditions, moral and religious norms, education, and traditions. In ancient times, work was often seen as shameful, especially physical labour. However, the Greeks and Romans made a distinction between the work of the lower classes and the activities of the privileged. The renowned figure Hesiod once said, "It is not shameful to work; only laziness is a disgrace" (Gidro, 2013).

With the evolution of humanity, the desire for professional development, the possession of a set of rights, and fair working conditions, we can discuss about the branch of labour law. A comprehensive definition of it would be as follows: "Labour law represents that branch of the Romanian legal system, given by the set of legal norms with a specific character, governing individual or collective labour relations, as well as those related to these relations, arising between the employee and the employing unit during the performance of lucrative activities, based on an individual employment contract or another legal instrument assimilated to it" (Cernat, 2014).

Taken as a whole, International Labour Law does not only encompass adults, individuals with consent, but especially protects young people and children, often representing a vulnerable group subject to exploitation, forced labour, discrimination, etc. The protection of youth and children in labour law has a long history, dating back to the 19th century. In the early 1900s, child labour was common, and many children were forced to work in hazardous and unhealthy conditions (U.S Bureau of Labour Statistics, 2017). In response, various laws were adopted to protect children from exploitation and forced labour and to regulate the conditions under which they could work. Over time, these laws have become stricter and more comprehensive, and today, most countries have laws specifically protecting young people and children from being exploited or forced to work. Additionally, these laws generally prohibit discrimination against young

people and children in the workplace. Other events that influenced the evolution of Labour Law were represented by colonization, with colonial powers of major empires such as Great Britain and France becoming permanent members of the International Labour Law Steering Council. This led, on the one hand, to the adaptation of labour forms to Western practices, such as industrial wage labour, while the agriculture sector, which formed the basis of most colonial economies in Africa, was neglected. On the other hand, contradictions arose in ILO practices, promoting both international labour and human rights standards and workers' rights, as well as the implementation of labour exploitation policies in their colonies (Hepburn, 2022).

In today's world, the legal framework of International Labour Law is shaped, on one hand, by regional and interregional cross-border labour standards; however, some argue that modern conditions also create additional cross-border legislation, while others do not see the possibility of a stronger evolution in this regard (Lushnikov A. et al. , 2016).

## **2. An analysis of the current legal framework**

The legal framework for International Labour Law traces its roots back to the 19th and early 20th centuries when the industrial revolution brought significant changes to the organization and conduct of work (History, 2020). Thus, the idea of regulating children's rights legislation and protecting children evolved with the emergence in 1884 of the National Society for the Prevention of Cruelty to Children (NSPCC), an organization inspired by the New York Society for the Prevention of Cruelty to Children (NUSPCC) (Hanson, 2016). At the end of the 19th century in the United States, a separate system of justice was established, namely juvenile courts, protecting children from abuse, violence, exploitation, violation of their fundamental rights, and sometimes even protecting them from their legal guardians, their parents. Obviously, this stage was also met with opposition, with criticisms including the absence of legal guarantees, the interference of state agents in the lives of poor families and children, and the combination of delinquency and neglect (Hanson, 2016).

One key development in the history of International Labour Law was the adoption of the Constitution of the International Labour Organization (ILO) in 1919, establishing the fundamental rights of workers to fair and favourable working conditions, as well as the principle of freedom of association, allowing workers to organize and negotiate collectively. This was

consolidated through the Treaty of Versailles in 1919, and in 1946, it became the first specialized agency of the United Nations, distinguished by its impressive structure based on the principle of tripartism: representatives of governments, employers' associations, and, last but not least, trade unions (De Stefano, 2021). Another significant stage in the development of International Labour Law was the adoption of the Declaration of Philadelphia in 1944. This declaration, adopted at the International Labour Conference, reaffirmed the principles of the ILO Constitution and added new rights, including the right to fair remuneration, the right to social security, and the right to form and join trade unions.

In addition to the ILO Constitution and the Declaration of Philadelphia, there are several other international conventions, treaties, and legal instruments that address the protection of youth and children in the workplace. These include Convention No. 138 concerning Minimum Age for Admission to Employment, and Convention No. 182 concerning the Worst Forms of Child Labour and Immediate Action for their Elimination.

At the Council of Europe level, the Revised European Social Charter, through Article 7, establishes a series of provisions regarding the protection of youth and children in the workplace, minimum age of employment, the right to fair remuneration, the right to a suitable working schedule for their development, and more. To date, it has been ratified by 47 member states. At the European Union level, the current regulations include Directive 94/33/EC on the protection of young people at work, amended by Directive 2007/30/EC, establishing a series of rights and protections for young workers in the EU. The Directive defines, for the first time in a European act, the young worker as a person up to 18 years old, the adolescent as a person aged between 15 and 18 years old, and the child as a person under 15 years old. The Directive sets specific rules and regulations regarding the types of work young people are allowed to perform, including restrictions on the number of hours and the work schedule.

In Sub-Saharan Africa, the period between childhood and adulthood is seen as an opportunity for these young individuals to acquire essential skills for the future economic efforts of households. Children are often viewed as a form of insurance for a decent living rather than dependent beings under the care of their parents. In many rural communities in Sub-Saharan Africa, child labour is considered a natural and legitimate practice (Gatsinz & Hilson, 2022). According to the

International Labour Organization (ILO), in Africa, in 2016, 72,113 children and adolescents were working, with 31,538 individuals working in inappropriate conditions (ILO, 2017).

In Asia, in Vietnam in 2012, the National Child Labour Survey reported that 1.75 million out of 18.3 million children in Vietnam were working, mostly in rural areas and usually starting work at the age of 12 (ILO, 2014). For example, the exploitation of children in gold mines in Uganda poses a significant challenge regarding the violation of fundamental children's rights (Njieassam, 2023). UNICEF reports indicate that approximately 51% of children are forced to work in gold mines, ranging in age from 5 to 17 years old. Despite Uganda having ratified the ILO Convention 138 of 1973, the ILO Convention 182 of 1999, being a party to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and the Optional Protocol on the sale of children, child prostitution, and child pornography, it still faces various challenges concerning child labour. Regarding India, according to the 2011 census, 10.1 million children aged 5 to 14 were working in India (ILO, 2017). However, starting from 2020, the ILO and UNICEF estimate that 5.8 million children aged 5 to 17 are working in India (UNICEF, 2021). Most working children in India come from rural areas and are due to the size of families, belonging to socially disadvantaged communities, lack of education, and the inability to attend educational institutions (Barsa, 2021). As for the People's Republic of China, it is illegal for both the public and private sectors to employ children under 16, and those who violate this law can be fined 5000 Chinese yuan per month for each child worker by labour protection authorities (as stipulated in the Regulation Prohibiting Child Labour, Article 6) (Tang & Zhao, 2022) (Regulations Banning Child Labour, 2002). However, child labour remains a significant issue in China; in 2010, approximately 7.74% of children aged 10 to 15 were employed. These children worked an average of 6.75 hours per day and had less than 6.42 hours available for study compared to those who did not work (Tang et al, 2018).

According to the ILO, in 2020, it was estimated that approximately 160 million children worldwide were subjected to child labour (ILO, 2020). One in three of these children was in the Asia-Pacific region, with 70% of them working in the agricultural sector, particularly in large palm oil plantations.

Therefore, Wahab et al., examine how child labour is measured through palm oil production in Malaysia, specifically in Sabah (Wahab et al., 2023). This study reveals that since Malaysia is the

second-largest palm oil producer and a major global exporter, the majority of workers are Indonesian and Filipino immigrants. They are allowed to involve their children as unofficial workers. Due to this unofficial status, in addition to the exploitation they face, these children work in unsafe environments without proper equipment, exposing them to risks such as insect bites, snake bites, and exposure to chemicals. In this study, a survey was conducted from January 21, 2019, to January 23, 2020, involving 43 children aged between 12 and 17 from various villages in Sabah. Fifteen of them admitted assisting their parents in palm oil agricultural work for less than 2 hours a day, while 15 of them reported being subjected to work and spending between 7 and 8 hours a day on it, and 13 of them stated that they were not involved in such activities (Wahab et al., 2023). The activities carried out can be analyzed in *Table 1*.

*Table 1.* Source: Survey example from: Wahab et al., Measuring Child Labour in Oil Palm Production in Sabah, Malaysia – Survey from 21 January 2019 to 23 January 2020

Social lens	Children assisting parents	Working children
Gender		
Male	Collecting loose fruits; slashing; manuring	Slashing; manuring; harvesting; FFB loading; spraying; stacking palm fronds
Female	Collecting loose fruits; bringing and serving food to parents while working	Collecting loose fruits; recording and counting of collected fruits; filling polybags; weeding at nursery; spraying
Age		
12–14 years	Collecting loose fruits; bringing and serving food to parents while working	Collecting loose fruits; recording and counting collected fruits; filling polybags; weeding at nursery
15–17 years	Collecting loose fruits; slashing; manuring	Collecting loose fruits; slashing; manuring; harvesting; FFB loading; spraying; stacking palm frond; spraying
Identity		
Citizen	Collecting loose fruits; bringing and serving food to parents while working;	Collecting loose fruits; recording and counting of collected fruits; filling polybags; weeding at nursery; stacking palm fronds, spraying, slashing; manuring; harvesting; FFB loading; Note: No significant difference between citizen and non-citizen children, according to identity.
Non-citizen (Indonesian)	Collecting loose fruits; slashing; manuring	
Education		
Enrolled in formal education	Collecting loose fruits; bringing and serving food to parents while working; taking care of younger siblings on site, slashing and manuring	Collecting loose fruits; slashing; manuring; harvesting; FFB loading; spraying; stacking palm fronds; recording and counting of collected fruits; filling polybags; weeding at nursery; spraying Note: No significant difference between citizen and non-citizen children, according to education.
Not enrolled in formal education		

In the United Mexican States, child labour is a significant issue, with many children subjected to hazardous work in agriculture and commercial sexual exploitation, and involvement in illegal activities (U.S Department of Labour, 2022). A national survey showed that 3.1 million children in Mexico are employed, not attending school, and some of them perform hazardous work (U.S Department of Labour, 2022). In 2021, the Mexican government made some progress in addressing the issue by increasing labour inspections and introducing a voluntary reporting system for problems (U.S Department of Labour, 2022).

### 3. Case Study: N. and V. v. France

On October 10, 2011, the European Court of Human Rights ruled that France violated Article 4 of the European Convention on Human Rights, which prohibits slavery and forced labour, in connection with a case involving two orphaned sisters from Burundi who were subjected to servitude and forced labour by their aunt and uncle (Affaire C.N. ET V. c. France, 2012). The Court found that the state did not have sufficient legislative and administrative measures to effectively combat servitude and forced labour. The first sister, CN, was subjected to forced labour, and the failure to comply with the task would have resulted in her being sent back to Burundi. In the case of the second complainant, V., no violation of Article 4 was found. The Court also decided that France had not fulfilled its obligations under Article 4 of the Convention to combat forced labour. The case was brought to the attention of the authorities in 1995, but no action was taken until the sisters fled from their aunt and uncle's home in 1999. The Court found that the authorities did not conduct an effective investigation in this case.

All things considered, it is necessary to emphasize the importance of understanding the situation the two orphaned sisters went through as a serious violation of their human rights and, more importantly, their human dignity, especially considering that forced labour is a severe crime that can have strong effects on the development and future of the victims.

Furthermore, it should be highlighted that from a legal standpoint, authorities need to have and implement effective measures for preventing and combating these crimes, as well as efficient tools for addressing labour rights violations.

In the context of the case of the two sisters, it appears that the authorities did not intervene adequately to protect the two sisters and hold those responsible for violating the victims' rights accountable. However, to prevent the recurrence of such cases, various measures can be taken, such as planning and implementing effective legislative frameworks and public policies to combat forced labour; establishing specialized commissions for data collection, strategy development, and continuous improvement recommendations; supporting education and awareness campaigns; implementing measures to protect and support victims of forced labour; and, last but not least, collaborating with international organizations to address the issue globally and exchange best practices.

#### **4. Conclusions**



Regarding International Labour Law, this work emphasizes its crucial role in safeguarding workers' rights and ensuring fair and decent conditions globally. Among other things, a legal framework establishes aspects such as work standards, conditions, working hours, and remuneration, with violations subject to sanctions. However, the existence of abuses cannot be overlooked, especially in economically weak states where poverty rates and demographics are high, leading to the exploitation of child and youth labour.

Therefore, this work aimed to address the challenge of child and youth labour exploitation, analysing existing legal frameworks from international levels, such as ILO Convention 138 of 1973, the ILO Convention 182 of 1999, to European levels like Directive 2007/30/EC, down to national legal frameworks and specific situations in countries like Malaysia, Vietnam, India, China, and so on. Additionally, this work sought to examine the correlation between the legal framework and the effects of labour on children's development, concluding that their exploitation hinders their development.

Lastly, this work intended to analyse a case study involving two orphaned sisters from Burundi suing France for violating Article 4 of the Human Rights Convention. This case was examined by the European Court of Human Rights but did not lead to concrete solutions or assistance for the two sisters.

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