



Protecting minors from forced labor: Between international obligations and Iraqi legislation

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Abstract

Child labor involves various forms of exploitation and abuse faced by children under the age of 18, posing one of the most serious threats to their safety and rights. Both genders, male and female, are subjected to mistreatment and exploitation that violate their dignity. These violations may escalate to include physical abuse, forced detention, and sexual exploitation. Additionally, child domestic workers are often victims of forced prostitution.

Child trafficking is considered one of the most heinous human crimes, as children are exploited for sexual purposes or forced into labor, often managed by organized networks. These violations expose this vulnerable group to significant physical and psychological harm.

Due to the gravity of this phenomenon, it has garnered widespread attention both nationally and internationally, aiming to protect children from its dangers, which have become a threat to society and weaken its ethical and social fabric.

This study begins with an introduction to forced labor, focusing on its definition and legal regulation under international law, particularly through instruments such as the ILO Forced Labor Convention and relevant protocols. The study will assess the effectiveness of these legal frameworks in preventing forced labor, with special attention to the issue of forced labor involving minors, and ensuring protection for vulnerable workers, such as children and migrants. Additionally, the research will examine the current state of labor laws in Iraq, evaluating their implementation and challenges in addressing forced labor, particularly the issue of forced labor of minors. Finally, the goal is to contribute to the global effort to combat forced labor and support the creation of a comprehensive legal framework in Iraq that aligns with international human rights standards, ensuring the protection of minors from forced labor.

Keywords: Labor law, forced labor, minors

Introduction

Article 1 of the Universal Declaration of Human Rights, dated December 10, 1948, states that “all human beings are born free and equal in dignity and rights,” meaning that no person, whether male, female, or child, should be enslaved. However, statistics related to child labor indicate a growing international trend of this phenomenon, as reports and studies from international organizations concerned with workers’ rights, particularly the International Labor Organization, highlight the increasing issue of compulsory (forced) labor among children.

For instance, a UNICEF report from 2002 states that at least 300,000 children under the age of 18 are involved in armed conflicts around the world. The 2002 report by Human Rights Watch reveals that the Myanmar military includes the largest number of children in its ranks globally, estimating the number of enlisted children at about 80,000 soldiers under the age of 18, the majority of whom were forced into military service. In some African countries, UNICEF reports that children make up 20% of the soldiers recruited in recent years, often in harsh conditions where they work nearly 19 hours a day for meager wages, while the fortunate ones work 12 to 14 hours daily in dangerous mining environments.

Forced labor is a global issue affecting a large number of individuals worldwide, with no country being immune to this phenomenon, as it extends to both developed and developing nations alike. This issue is among the most serious challenges impacting children’s growth and safety, as it has harmful effects on their rights and their ability to lead normal and healthy lives. Economic exploitation may occur with children’s consent in some cases, while in others, it happens without their consent.

Economic exploitation is one of the worst forms of child abuse, as children in various fields of work often suffer severe physical injuries that harm their health and, in some cases, threaten their lives. They also face occupational diseases and risks due to the harsh working conditions. The phenomenon of child labor has spread significantly in many communities, causing concern among education and child welfare authorities due to its devastating effects on society. Some individuals even encourage children to work, enticing them with money or fulfilling their simple desires.

Methodology

This study adopts a theoretical legal research methodology, utilizing a comprehensive review of both primary and secondary legal materials related to forced labor, particularly in the context of Iraqi legislation and international law, with an emphasis on forced labor involving minors. The primary sources include relevant legal instruments such as the 1930 Forced Labor Convention (ILO), the 2014 Protocol, ILO Conventions No. 105, No. 138, and No. 182, as well as Iraqi Labor Law No. 37 of 2015. These sources will be analyzed to understand the legal frameworks in place to combat forced labor, including specific protections for minors, and human trafficking.

Secondary sources will include academic books, articles, legal journals, and reports issued by international organizations like the International Labor Organization (ILO), the United Nations, and local NGOs. These materials will provide insights into the global perspective on forced labor, with particular attention to the challenges faced by children and minors, along with the effectiveness of

international treaties and national legal systems in tackling this issue.

Furthermore, the study will explore the practical implementation of labor laws in Iraq, evaluating the challenges of enforcing these laws in a country affected by conflict and economic instability, especially concerning the protection of minors from forced labor. By examining both legal texts and practical enforcement issues, the study aims to identify key areas for improvement and offer recommendations for strengthening the legal framework to better combat forced labor, particularly among children.

The goal is to contribute to the global discourse on forced labor by providing a nuanced understanding of legal approaches in different regions, with a particular focus on Iraq's efforts to comply with international standards and protect its workforce, especially vulnerable minors, from exploitation.

The concept of forced labor

The term "forced labor" has been defined and clarified in numerous international agreements, most notably the 1930 Forced Labor Convention, which came into effect on May 1, 1932. According to Article 28 of Convention No. 29, issued by the International Labor Organization (ILO), forced labor is defined as: "All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. To ensure clarity of this concept, the convention excludes certain cases from the definition of forced labor, including:

- A. Compulsory military service related to purely military tasks;
- B. Normal civic obligations required of citizens in a state that enjoys full autonomy;
- C. Work or services imposed by a judicial sentence, provided such work is carried out under the supervision of a public authority and is not exploited for the benefit of private individuals, companies, or associations;
- D. Emergency work, such as tasks arising from natural disasters or imminent threats;
- E. Simple communal services performed by members of a local community for the direct benefit of that community, provided such services are considered normal civic duties and that the members or their direct representatives have the right to express their opinion on the necessity of these services.

The 2014 Protocol to the Forced Labor Convention added important clarifications, emphasizing that the definition of forced or compulsory labor under Article 2 of the convention encompasses all forms and manifestations of forced labor and applies to all individuals without discrimination. The ILO, in its reports, affirmed that the convention aims to protect all populations and is not restricted to specific categories of workers. This makes it comprehensive in its application, covering all forms of forced labor, including slavery, debt bondage, human trafficking, and forced labor in both the public and private sectors. Based on Article 2 of Convention No. 29, forced labor can be defined as: "All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." In this context, two essential elements must be considered:

- A. The work or service is imposed under threat or intimidation;
- A. The individual's consent was not voluntary.

Forced labor is often local in nature, making it challenging to track perpetrators and victims. Additionally, many victims of forced labor hesitate to speak out about their suffering due to feelings of shame or fear, which further complicates efforts to prevent and eliminate this phenomenon.

In Iraqi legislation, the Iraqi Labor Law No. 37 of 2015, in Article 1, Paragraph 12, defines the concept of forced labor as: "Any work or service imposed on a person by force and under the threat of punishment, without the individual's voluntary consent to perform it." This definition reflects the Iraqi legislator's commitment to combating all forms of coercion and exploitation in the workplace while striving to ensure the respect of individuals' fundamental rights in accordance with national legislation and international standards for the protection of workers. The Iraqi legislator, in the 2015 Labor Law, prohibited forced or compulsory labor in all its forms, reaffirming its commitment to combating this phenomenon, which constitutes a violation of human rights and dignity. Among the forms of forced or compulsory labor prohibited under Iraqi law are:

- A. Debt bondage or slavery, where individuals are forced to work to repay their debts under coercive conditions;
- B. Work associated with imposed restrictions on individuals, which reflects a form of slavery;
- C. Illicit trafficking of persons and migrant workers, which is carried out through illegal means, and the work is inherently non-voluntary;
- D. Domestic labor that involves coercive pressures, leading to the exploitation of individuals in unsafe working environments.

The minor in international law and Iraqi legislation: definition and concept

There are more than 82 international agreements that address various forms of forced labor, both directly and indirectly. Among these treaties is the Convention on the Rights of the Child, adopted by the United Nations General Assembly under Resolution 22/44 on November 20, 1989, and entered into force on September 2, 1990. Article 49 of this convention defines a "child" as any person under the age of eighteen, unless they have reached the age of majority under the applicable law. In addition, the agreements include International Labor Organization Convention No. 105 concerning the abolition of forced labor, which in its first article states that "each member country of the International Labor Organization that ratifies this convention commits to prohibit any form of forced or compulsory labor and to refrain from resorting to it." However, the convention does not specify the minimum or maximum age of individuals who may be subjected to forced labor or exploitation. It also includes International Labor Organization Convention No. 182 of 1999 concerning the prohibition of the worst forms of child labor and immediate action for their elimination. Article 3 of this convention states that "the worst forms of child labor include all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, child servitude, and compulsory or forced labor, including the forced recruitment of children for use in armed conflicts.

while The Iraqi Labor Law sets the minimum age for employment at 15 years, distinguishing between two categories: the “young worker,” defined as any person, male or female, who has reached the age of fifteen but not yet eighteen, and the “child,” defined as any person who has not reached the age of fifteen. This distinction aims to ensure appropriate legal protection for each group, safeguarding children’s rights and imposing strict regulations on the employment of minors, in line with national legislation and international standards for the protection of children and youth.

Forms of forced employment of minors

Many countries around the world are striving to eliminate the worst forms of child labor, considering child trafficking, exploitation, and coercion into forced and restricted labor as some of the most serious crimes affecting children’s rights. Any child subjected to involuntary servitude, religious slavery, forced labor, or enslavement through the use of force, fraud, or coercion is considered a victim of human trafficking, regardless of the location of the exploitation. This is outlined in Article 3 of the United Nations Protocol on Human Trafficking (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children) of 2000, which recognizes that a child involved in forced labor or any form of exploitation is a victim of trafficking. There are various forms in which children are exploited through forced labor, each of which constitutes a violation of their rights and negatively affects their growth and health. These various forms of child labor exploitation include:

- a. **Involuntary servitude (Slavery):** In this case, the child is forced to work under coercive conditions, deprived of their freedom. The child may be made to perform strenuous or hazardous tasks without any compensation or rights, treated as any slave would be, denied their basic rights;
- b. **Religious slavery:** This involves forcing children to work due to their religious affiliation, often under threat or religious pressure. Children may be threatened with religious penalties if they refuse to perform the forced labor associated with this form of enslavement;
- c. **Forced labor (Sweatshop Labor):** Forced labor means that children are made to work in inhumane or harsh conditions, typically in polluted or dangerous environments like mines or factories, without the option to refuse work. These children are forced to work long hours for little or no pay;
- d. **Enslavement through force, fraud, or coercion:** Here, the child is forced to work using physical force, deception, or psychological coercion. The child might be lured with promises of good work or education, only to later discover that they have been coerced into forced labor under poor conditions;
- e. **Human trafficking:** In this situation, children are sold or transported across borders for exploitation in forced labor, prostitution, or other illegal activities. These children are considered victims of human trafficking, where they are exploited in roles involving sexual, physical, or psychological abuse;

f. **Prostitution work:** Some children are coerced into prostitution or related industries. This is one of the most severe forms of exploitation, where children face sexual abuse and are deprived of their basic rights to a decent life;

g. **Illegal activities:** This includes forcing children to participate in illegal activities like drug trafficking, theft, or acts of violence. These children face legal risks and violence, and they are exploited in inhumane conditions;

Confronting forced labor: The International Legal framework and Iraqi legislation

Human society has undergone profound transformations accompanied by developments in cultural civilization that have influenced various groups, including children. With the spread of modern systems and the rise in poverty rates, many families were forced to rely on their children to meet daily needs. Consequently, some families resorted to sending their children to work for strangers, leading to the emergence of the “boy labor” profession under harsh and inhumane working conditions.

The issue of child labor came to prominence with the establishment of the International Labor Organization in 1919. According to the World Bank’s 1997 report, numerous organizations, such as the United Nations Children’s Fund (UNICEF) and non-governmental organizations, became involved in combating this phenomenon. These entities issued strict legislations aimed at curbing the forced employment of children in various sectors. After World War I and the accompanying severe exploitation of individuals in factories, the international community began to seriously address the issue of forced child labor as a violation of human dignity and basic rights. This sparked global interest in confronting these practices and led to the adoption of several international agreements that addressed forced labor as an urgent issue requiring attention and regulation. International agreements related to combating forced labor represent significant steps toward protecting human dignity and preventing violations associated with forced labor. These efforts began with the 1926 Slavery Convention, which considered forced labor a form of slavery due to its violation of human dignity. This convention paved the way for the adoption of the 1930 International Labor Organization (ILO) Forced Labor Convention, the first treaty dedicated to addressing such violations and explicitly criminalizing forced labor.

Subsequently, the global framework evolved significantly with the adoption of the 1957 International Convention No. 105, which focused on criminalizing all forms of forced labor. Additionally, ILO Conventions No. 138 and 182 further highlighted three key categories of forced labor involving children: labor below the minimum age, forced recruitment into armed forces, and work that endangers the physical and mental well-being of children. The ILO Declaration on Fundamental Principles and Rights at Work, adopted at the International Labor Conference in 1998, also played a pivotal role in advancing efforts to combat forced labor and slavery. This declaration obligated member states, even those that had not ratified related conventions, to respect fundamental rights, including freedom of association, the right to collective bargaining, the elimination of forced labor, the eradication of child labor,

and the prohibition of discrimination in employment. These international agreements and declarations serve as essential references for protecting minors from the worst forms of forced labor. They aim to suppress and penalize human trafficking, prohibit all forms of exploitation associated with forced labor, and mandate signatory states to implement their provisions to uphold human dignity and fundamental rights.

The Iraqi legislator regulated labor freedom and its organization in the Labor Law No. 18 of 2015, emphasizing the protection of individuals' fundamental rights in the labor market. This was achieved by affirming the principle of labor freedom, stating that the right to work cannot be restricted or denied. The law also obliges the state to adopt policies that promote full and productive employment, while respecting the fundamental rights at work, such as the right to form unions, the actual recognition of collective bargaining rights, the abolition of all forms of forced or compulsory labor, the elimination of child labor, and the eradication of discrimination in employment and occupation. The law also provides strong protection for workers by granting them the right to approach the labor court to file complaints if they face any form of forced labor or exploitation. It stipulates strict penalties for those who violate these provisions, including imprisonment for up to six months or a fine of up to one million Iraqi dinars, or one of these penalties for those who engage in unlawful child labor, practice discrimination in employment or occupation, force individuals into compulsory labor, or commit sexual harassment in the workplace.

Regarding child labor, the law prohibits employing minors or allowing them to enter workplaces if the nature or conditions of the work may harm their health, safety, or morals. Additionally, the working hours for a minor under the age of sixteen shall not exceed seven hours per day. The daily working hours must include one or more rest periods of no less than one hour, ensuring that continuous work does not exceed four hours. A minor permitted to work is entitled to an annual paid leave of thirty days. However, the provisions of this law do not apply to minors over the age of fifteen who work within a family setting under the supervision and management of a spouse, father, mother, or sibling, provided the activity is intended for local production and does not employ wage workers. An employer who violates the provisions of this chapter shall be penalized with a fine of no less than one hundred thousand dinars and no more than five hundred thousand dinars.

The Iraqi High Commission for Human Rights estimates the child labor rate in Iraq at approximately 2%, noting that the number of working children in the country exceeds 700,000. Meanwhile, the United Nations Children's Fund (UNICEF) reports that around 90% of Iraqi children lack access to early education. Despite the increase in the primary school enrollment rate to 92%, the completion rate of primary education among children from poor families does not exceed 54%.

Although there are legal regulations governing child labor, the prevalence of child labor in Iraq is attributed to several factors, most notably the conflicts and wars the country has experienced, the widespread unemployment, the closure of factories and companies, and the presence of an unregulated labor sector that lacks both union and governmental oversight. Despite the existence of tripartite committees comprising the union, the Ministry of Labor, and the

Federation of Industries, their role remains limited and ineffective. These committees often exist only on paper, with no tangible presence in the field, making them incapable of covering various workplaces or ensuring the necessary oversight.

Conclusion

Forced labor remains a significant global issue that violates human rights and dignity. It takes various forms, including debt bondage, human trafficking, and child labor, and continues to persist despite international efforts to address it. The ILO's conventions and protocols, alongside national laws like Iraq's Labor Law No. 37 of 2015, provide essential frameworks for combatting forced labor and protecting vulnerable individuals, particularly children, from exploitation. However, challenges persist, such as the difficulty in tracking perpetrators, the local nature of forced labor, and the reluctance of victims to report abuse due to fear or shame.

International legal instruments, like the United Nations' Protocol on Human Trafficking, and national laws that prohibit child labor and coercive work conditions, are crucial to fighting this issue. While Iraq has made legal strides to protect labor rights, including strict regulations against forced labor and child exploitation, the prevalence of these crimes remains high due to systemic issues like conflict, poverty, and ineffective enforcement mechanisms. To effectively eradicate forced labor, a more robust and collaborative global effort is required, involving better enforcement, stronger protection for victims, and increased public awareness and education. Only through a comprehensive and sustained approach can forced labor truly be eliminated, ensuring that individuals, especially children, are protected from exploitation and have access to a future free from coercion and abuse.

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