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CHILDREN AND FORCED LABOUR: THE LEGAL NATURE OF INTERNATIONAL LABOUR STANDARDS

Abstract: The article analyzes international standards for appropriate and decent work for young people and children, as well as the prohibition of forced labour. The legal nature of major international agreements on child labour adopted by the UN and the ILO has been studied.

Key words: child labour, decent work, forced labour, international standards, Convention, Recommendation, ILO.

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Introduction

According to the International Labour Organization (ILO) [1], while the global youth workforce decreased by 34.9 million from 1997 to 2017, the number of young people increased by 139 million, now accounting for almost half of the world's children aged 15 to 24 are in labour activities. There are 190 million unemployed people in the world, of which 64.7 million are young people [2].

Today, child labour can be observed in almost all countries. According to Korshunova, this is a relatively common practice in poor and developing countries [3]. According to the ILO, children work twice as hard in agriculture than in other sectors of the economy. The ILO recognizes that child labour is largely the result of poverty, and that long-term solutions to these problems depend on sustainable economic growth that leads to social development, in particular poverty eradication and universal education [4]. Researcher A.Rakhmanalieva also rightly acknowledges that the main reason for the problem of child labour is poverty [5].

The need to provide special legal protection for children is primarily related to the fact that they have not reached physical and mental maturity and,

consequently, the need to provide conditions for their education and full development.

One of the important tasks facing the international community is to establish the necessary standards regarding the active involvement of children in labour, which protects the rights and interests of this vulnerable group, as well as any kind of work that may harm their health, safety or spirituality. The United Nations General Assembly's Sustainable Development Summit in September 2015 set specific goals until the 2030 UN Global Agenda for Sustainable Development, including the creation of decent jobs for young people, the prohibition and elimination of the worst forms of child labour [6].

The Main part

M. Vlasenko noted that the separation of youth and children as a special subject of labour relations is in line with international labour standards governing the termination of child labour, the establishment of a minimum age for employment, the prohibition of child labour in hazardous and harmful work, the establishment of special state bodies [7]. The International Covenant on Economic, Social and Cultural Rights of 1966 provides all children and

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adolescents with special protection and assistance without discrimination. The mentioned agreement also provides protection from economic and social exploitation, protection of children and adolescents in areas harmful to their morals and health or life-threatening or their normal growth establishes penalties for use in areas that may cause harm to children, sets a minimum age for employment, and prohibits the use of child labour by minors [8].

Article 32 of the United Nations Convention on the Rights of the Child 1989 states that “States Parties shall recognize that any child who is at risk of economic exploitation and endangering his or her health or of his or her health, physical, mental, spiritual, moral or social development. In addition, it points out that States Parties shall take all necessary measures at the national, bilateral and multilateral levels to prevent the abduction, sale or smuggling of children for any purpose and in any form [9].

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime 2000, requires member states to punish those involved in trafficking. According to the protocol, the use of human beings meant, at the very least, the use of other persons' prostitution or other forms of sexual exploitation, forced labour or services, slavery or slavery-like habits, involuntary status or segregation of human organs or tissues [10]. The Protocol sets out an important provision on child trafficking, which states that the recruitment, transport, transfer, concealment or acceptance of a child for use is considered "trafficking in human beings" even if it is not related to the use of coercive means specified in Article 1 of the current Protocol.

The adoption of most international instruments on child safety and protection is related to the activities of the ILO. The ILO has established a system of rules to regulate the working conditions of young people and children. The report of the ILO Global Commission on Labour Perspectives on January 22, 2019 states that the problem of labour relations with young people is one of the most important issues, and young people are recognized as a huge opportunity. In its turn, failure to use this opportunity properly and effectively can have negative consequences for the future development of the state and society. The report notes that the integration of young people into the labour market needs strong support to make them active members of society, and recommends expanding opportunities for decent employment for young people through employment programs. The work of young people must be encouraged on the basis of the principle of equal pay for equal work. Special attention is paid to providing opportunities for unemployed youth to receive education and vocational training, as well as the problems of their social integration [2].

According to the ILO Employment Policy Convention No.122, member states should prioritize the availability of jobs for all willing and job-seekers, the most productive of such jobs, and the implementation of policies aimed at ensuring freedom of choice of employment [11]. The effective implementation of this policy is especially important for countries where the majority of the working population is young, including Uzbekistan.

ILO Special Youth Schemes Recommendation of 1970 addresses the issues of youth employment and vocational training related to the application of the ILO Forced Labour Convention No.29. The recommendation states that participation in special youth programs, activities aimed at the economic and social development of young people in their countries, as well as programs aimed at acquiring education, skills and experience that facilitate their future economic activity and promote their participation in society, should be voluntary. Exceptions may be granted only in accordance with the law and subject to full compliance with the provisions of international conventions on the policy of forced labour and employment [12].

The ILO Declaration on Fundamental Principles and Rights at Work, adopted in June 1998, identified the principle of a strict ban on child labour as one of the four most important fundamental principles in the field of labour. The peculiarity of this Declaration is that, although not all member states of the ILO have ratified the relevant conventions, due to their membership in the Organization, the most important principles in the field of labour, including the abolition of all forms of coercion or forced labor, should be accepted to implementation [13].

The ILO's oversight bodies have considered that children under the age of eighteen can freely consent to work or the provision of services, and that parental consent is required. ILO Minimum Age Convention No.138 and Worst Forms of Child Labour Convention No.182 prohibit the employment of children in occupations that may endanger the health, safety and morals of children. In conclusion, that neither the child nor the adult with parental authority can give real consent to this type of employment.

ILO Minimum Age Convention No.138, adopted in 1973, stipulates that the minimum age allowed for employed or hiring in vehicles registered within its territory and is not less than the age required to graduate compulsory schooling or not less than fifteen years of age [14]. Moreover, an important requirement of this international document is that the minimum age for admission to any type of work or type of hired work that may endanger the health, safety or morale of the adolescent should not be less than eighteen years. In total, the ILO has adopted nine conventions on the minimum age for the employment of children in various fields.

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Forced labour of children under the age of 18 is one of the worst forms of child labour defined in Worst Forms of Child Labour Convention No.182. Child labour applies not only to the fact that they perform work under the threat of punishment by third parties, but also to cases of forced labor that exist in cases where the whole family is forced to work.

Article 3 (a) of the Worst Forms of Child Labour Convention provides that the worst forms of child labour are “all forms of slavery or slavery-like practices, such as the sale of children and their trafficking, debt addiction and serfdom, as well as forced or coerced labour. In its turn, this includes forcing or coercing children into use in armed conflict” [15].

It should be noted that Convention No.182 does not provide for any definition of forced labour, the definition given in Article 2 of the ILO Convention on Forced Labour No.29 is also valid for the purposes of Convention No.182. The Convention stipulates that each State Party that has ratified it shall not allow children to be subjected to the worst forms of child labour and shall not allow children to engage in the worst forms of child labour. It also requires the adoption of effective measures aimed at directly assisting them in rehabilitation and social integration at the level of need and demand.

ILO Worst Forms of Child Labour Recommendation, 1999, states that children who are

subjected to physical, psychological or sexual abuse should be included in determining the type of work. To illustrate, the list includes children are particularly at risk; work performed underground, under water, at dangerous heights, or indoors; work performed with hazardous machinery, equipment and devices, or work that requires manual lifting or moving of heavy loads; work in conditions harmful to health and work performed in particularly severe conditions [16]. An example of this is work where the duration of working hours is long or night work, including work involving the child being unjustifiably detained in a building belonging to the employer.

The Republic of Uzbekistan has ratified the main documents of the ILO regulating child labour. Two of these, Minimum Age Convention No.138 and Worst Forms of Child Labour Convention No.182, are fundamental conventions.

In conclusion, it should be noted that a strong system of international law has been formed to create decent working conditions for young people and children, to prohibit their forced labour and to completely eliminate the worst forms of child labour. At the same time, it is important to take urgent measures by member states to meet the requirements set by international standards, to adopt action plans at the national level and to monitor their implementation.

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