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“Child labour, a form contemporary of slavery”

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## 10th CONGRESS OF THE BASIC INCOME EUROPEAN NETWORK “CHILD LABOUR, A FORM CONTEMPORARY OF SLAVERY”

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*Child labor* constitutes an urgent problem requiring urgent attention from the social, economic and human rights standpoints. It is estimated that there are about 300 million working children all over the world who are deprived of a proper education and their fundamental rights their childhood being taking away and their health and integrity at risk. This situation it is considered one of the practices similar to the underhanded slavery, that which makes difficult to discover it, to sanction it and stiller, to suppress it. For the same thing, to abolish the child labour and the practices similar to the slavery, it should constitute an end in itself and also, it would be an effective form of promoting the economic and human development. The combined reflection on the Basic Rent that is of this Congress, mark -without doubt - a perspective of social justice to recapture and to apply - short term - in the different countries about Child labour.

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In this article I present the central ideas on child labor, clarify the concept of child labor and include some aspects produced by research on the topic that I have developed in my academic work, from the social-anthropological and human rights points of view.

### *CENTRAL POINTS*

- 1 *The historical construction partner of the childhood and their rights.*
2. *The main concepts of Poverty*
3. *Child labour.*
- 4 *.Investigation experiences. 5*
5. *Child Labour a form contemporary of slavery.*
6. *International instruments*

*Reflexión.*

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### **1. The children and their rights**

Boarding the topic of child labor requires first to explain the concept of **childhood**. This concept is a socio-historical construct and for this reason this concept has been interpreted in different ways through time, according to the society we are referring to. In all cultures several stages of life cycle are distinguished, each one associated to specific roles. The rationalization of modern society demands more accurate definitions as to when this stages start and finish.

In this document I recapture the approach of **The Convention on the Rights of the Child** (CDN) 1989 and of the Political Constitution of the Mexican United States.

The CDN understands for child all human being smaller than eighteen years of age, unless, by virtue of the law that is he applicable, have reached most of age approach that they recognize all the countries that ratified it before. This is, 191 of a total of 193 countries.

In Mexico, The Political Constitution of the Mexican United States refers to the citizenship in the following way: " Civic persons of the Republic the males and women that, having the quality of Mexicans, gather, also, the following requirements: I to have completed 18 years and II, to Have a honest way of living" Art. 34. That is to say that the citizenship and most of age is acquired, in principle, when turning the 18 years. Therefore, 18 year-old people, for the law, are smaller than age. However, one has to take into account that in laboral questions there is a legal distinction for minors, between the prohibition to use their labor (children under 14 and the regulations for workers with ages 14-17.

The childhood like global category of the human vital cycle in the context of the historical, cultural and juridical particularities, acquire relevance starting from the philosophy of the human rights; the Declaration of Geneva (1924) the Declaration of the child Rights (1959) and mainly, the derived social change of the CDN.

The materialization of these rights proclaimed in the international environment, takes place through a long and difficult fight in different countries and times. Advance that its stands out to beginnings of the XX century with the treaties adopted against the traffic of slaves; the creation of the international Red Cruz -with the objective of protecting the victims of the war - the creation of the International Organization of the Work (ILO) in 1919 -like reaction to the limitless exploitation to the workers and workers -among other - they are made that constitute achievements of undeniable importance for the humanity's history, still taking into account their nonfulfilment for omission or violation.

The specific rights granted to the children in the CDN, as long as specially vulnerable, essentially dependent human beings and in development, they reaffirm or they reflect the same rights granted to the human beings of any age, for example, the protection against the torture. They improve for the children, the applicable norms to the adults in general, as the special conditions with relationship to the administration of justice, those of privation of freedom and the work. They also approach some exclusive matters for the children, for example, the international adoption, the obligatory and gratuitous basic education; the boy's superior interest and the participation.

The obligatory character for the States leaves that have ratified this international instrument, as Mexico, it represents the part waters that it distinguishes the boy-object of the boy's repression-compassion like fellow social -main point- with full rights (civil, economic, political, social and cultural) as long as person smaller than age. The boy's

superior interest and the ethics of the doctrine of integral protection are major axis of the CDN.

It is pertinent to stress that the execution of a right, doesn't exclude that of the other, given its integral character, joined to the characteristics of the human rights, of being unrenounceable, indubitable and inalienable.

It also proposes some rights that had not been specified in the Declaration of 1959 for example the one enunciated in the Article 38 of the CDN that settles down in 15 years the minimum age to participate in armed conflicts.

When ratifying the CDN, the States committed to act in agreement with the objective and purpose of that international treaty and they acquires two essential responsibilities: a purpose obligation and one of behavior. In the first case, the obligation of to respect and to assure the execution of the rights recognized in the Convention, without discrimination some and in the second, the one of adopting all the appropriate measures to reach such a purpose, including the laws and administrative programs.

Demographic estimates at international level of the group of 18 year-old people, mention a population of 2,000.000 (the total population's third) In Mexico, of a population of 105 millions, the group treasury of children and adolescents it is of approximately 40.000.000.

In most of the countries, people called smaller than age -that includes children, girls and adolescents (-18 years) they are socially subordinate to the adults, they live the gender oppression, some are still discriminated against by their ethnic origin, the political-religious conceptions of their families and according to their socioeconomic condition, a great percentage of them is on exploited in the work, generation plus generation.

In general terms, these are some characteristics of people of the group under age called children and the current legal context that it frames them, as well as the demographic reference in which is immersed the problem of boys, girls and adolescents.

## **2. The main concepts of Poverty**

Being **poverty** the determining factor for the premature incorporation of children to the labor market, it is necessary to reflect on some initial formulations of the concept in order to understand the concept itself.

The Economic Committee for Latin America (CEPAL) establishes reliable technical indicators for the line of poverty using the criterion of income equivalent to the double of the cost of the basic food elements and considers as destitute people those who do not manage to meet their basic alimentary needs even if they spend all their income on food, as the line of destitution is define by the cost of the basic food. This situation is determined by the conditions of employment as the income of the poor depends on their jobs thus existing a close relationship between unemployment underemployment and poverty.

The figures and indicators show that, in many social aspects, during the last twenty years, Latin America has not had progress in their development, what is more, it has gone backwards. The poor people have been as still are the group most negatively affected. On the one hand, they suffer the impairment of their income when unemployment rises, underemployment and the fall of actual salary.

On the other hand, they are impacted by the budget cuttings on the basic social services such as education, health and housing which are constitute a product of the application of neoliberal policies.

Being poor person means to age rapidly and to die young; to work hard and not have control over the political issues. It means, in practice, to be a second class citizen. Being poor is to live in uncertainty, to live socially and territorially segregated. Children born in poor homes are not real citizens as they are deprived of their fundamental human rights.

**Bustello Graffigna<sup>1</sup>** states that there have been three basic concepts about poverty in the history of social policy: subsistence, basic needs and relative deprivation or relative poverty.

The Concept of **subsistence** refers to the income that must be obtained by a family to satisfy their alimentary needs and thus maintain their physical adequacy. This criterion has been the subject of debates in the sense that it only considers material needs and does not take into account other needs in the sense of the demands imposed upon them in their roles as workers, as members of a family and as citizens.

To view these people only as consumers of goods and ignore that they are also producers of these goods and at the same time active participants in a complex network

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<sup>1</sup> Bustelo Graffigna, Eduardo S. (1999) Pobreza Moral. Reflexiones sobre la política moral y la utopía posible en: Infancia y política social. Suman Bhattacharjea (compiladora) UNICEF y UAM. México, pp. 37, 38.

of social relationships would be, in Bustelo's words, "-excuse the redundancy- to have a poor concept of poverty." People also require services, especially universal and public services to which a community, as a whole, can resort to, particularly as to health and education.

Of the previous concepts, neither subsistence nor basic needs make reference to the main problem, that is, **poverty and its relation to wealth**. We have to emphasize on the fact that the problem is not only poverty but also **injustice**, the deep inequities of a particular society.

Relative poverty includes indicators for material and immaterial needs and their relationship with income. But it also includes an analysis of the changing relationship between relative deprivation and income through time, as well as between the different levels of income. One cannot forget that the character of a need is relative to the different levels of income: the greater the imbalance in the distribution of income, the greater the situation of poverty.

"Poverty does not only include those people victims, one way or the other, of the bad distribution of income and wealth, but also those whose material and immaterial resources do not allow them to comply with the demands and social habits upon them as citizens. For this reason, poverty is above all, **poverty of citizenship.**"<sup>2</sup>

**Poverty of citizenship** is understood as a social situation in where people can not have material or immaterial conditions of life that allow them to perform their roles, to fully participate in the economic, political and social life, and to understand the cultural codes to incorporate themselves as members of a society. Poverty of citizenship is not to belong to a community acting as full members and this constitutes **SOCIAL EXCLUSION**.

**Working children and their families, as well as other vulnerable groups are socially excluded.**

Working children are forced to lend their services subordinating<sup>3</sup> their work to an employer or client, to meet their own vital needs or the needs of their family group; they come from these families and they constitute what I call **Child labor. The works performed by these children are not only an alternative but the only way to**

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<sup>2</sup> Ibidem p. 31

<sup>3</sup> Subordination: juridical power of command.

**survival. In this sense, this practice is a disguised forced labor and a violation to their specific human rights.**

Under this consideration, overcoming poverty requires an effective combination of actions: greater participation and efficiency of democratic institutions, economic growth and a balanced re-distribution of income and wealth.

*The abolition of Child Labor does not need to wait for poverty to disappear.*

### **3. Child labour**

Child exploitation has its origins in the so called Industrial Revolution. The first attempts to protect working children from the immoderate abuse on the part of their employers were recorded during the 17th and 18th centuries through reporting and legislations produced in some European countries such as England, France and Germany.

Legislations at that time did not take into account the social context. Therefore, laws were elaborated for each type of specific labor and Children's rights were not still conceived. For example the applicable law to textile workshops (1928), the law establishing the minimum working age of 10 years for work in mines (1818) and the figure of inspectors of labor in mines (1860) Great Britain banned the employment of children under 9 and limited the working day to eight hours for children between 9 and 13.

The explanation of the use of child labor traces back to the times of accumulation of properties having its origin in the construction of capitalism in England, since the use of machinery allow for the use of operators with less physical strength and other industrial activities proper for the incorporation of women labor and child labor.

This situation caused the devaluation of adult male labor force which was displaced in different areas of production creating a vicious circle: the reduction of salaries caused more family member to incorporate in the labor market to compensate for the reduced purchasing power of salary and at the same time, to contribute to family income; this originating a greater reduction of the salaries of non-skilled adult labor.

In turn, multiple employment was encouraged which widened up the sector of informal economy<sup>4</sup> which closes the circle of poverty and reaffirms conditions of underdevelopment. In this way capital not only exploits the worker but also his family, including children.<sup>5</sup>

The conditions of the exploitation of working children do not depend on a lower salary and the number of working hours assigned by each employer, or on the characteristics of the different works. Besides direct exploitation, there is social, generational –indirect- exploitation that working children “inherit” from their parents. This exploitation manifests and reproduces itself since the moment in which the need for survival requires it, from the contribution derived from the efforts of the children which does not occur in other groups of children whose parents enjoy a better socioeconomic status.

“Considering parental abuse as the cause of child labor from an early age is the approach of functionalists seeking for the conservation of a social system while not questioning the capitalist relationships of production which are, essentially relations of exploitation.”<sup>6</sup>

Child labor has been present in the lives of most parents and grandparents of the new generation of working children with different or no level of schooling, non-skill unsteady jobs with no social security. Among other things, they have not had, and do not have, the opportunity to enjoy from benefits such as medical service and medicines, perks and retirement. In most cases, the number of children represents, for these child workers in their old age, the economic help equivalent to social security enjoyed by formal workers when retiring.

Apparently, the work the children do has as its only purpose to obtain a direct immediate benefit. This is to say, meeting essential needs for them and their families who are in the social levels known as poverty and critical poverty.<sup>7</sup>

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<sup>4</sup> Informal economy has the characteristic of being out of official control, not being recorded in official statistics as these kinds of activities by their nature are not reflected in tax payment as the said activities are not established in a given place. Peddling corresponds to this kind of economy, and activity currently out of official control and as such only estimations can be given.

<sup>5</sup> Brizzio de la Hoz, A. (1989) “Trabajo Infantil y derechos de los niños” Congreso Internacional Trabajando por los Derechos del Niño” Haikko, Finland, June 16-18.

<sup>6</sup> Brizzio, H. A. (1986) El Trabajo Infantil: un estudio de caso. Tesis de Licenciatura en Antropología Social. Universidad Veracruzana, Xalapa. Vol. I

<sup>7</sup> Brizzio H. A. (1999) El trabajo infantil en el sector informal de Xalapa. Resumen de proyecto. Doctorado en Historia y Estudios Regionales. Level of poverty is when the family income is enough to meet the expenses of basic needs, equivalent to 1-3 minimum wages and critical poverty or extreme



However, the **main function** of child labor remains covert. On the one hand, to allow for the reproduction of these families, and on the other hand, the **benefit oriented to capital**.

Undoubtedly, the low purchasing power of salary is a *determining* factor for the daily incorporation to the labor market of a great number of family members, including women and children, either permanently or sporadically. However, one must take into account the **influence** of other factors in specific situations, such as the structure and composition of the family. Lines of authority, religious conceptions and gender, cultural traditions, schooling, and economic status, as well as the rural or urban-suburban context and the dominant ideology mostly assimilated through the mass media.

Suffice to say that minimum wage for the different regions of the country is calculated below the basic needs line for a 5-member family. ¿How or by whom is the other part of the necessary income covered? The answer is: the money produced by the work of women and children.

Around 1950's child labor responds and correlates with the structural crises of neoliberal policies and the context of economic globalization.

In most Latin American countries, the problem of child labor has been object of research and studies in the 20<sup>th</sup> century through projects and programs, preferably addressed to the so called "Street children". That is, the interest in knowing and eliminating the social problem of child labor affecting millions of boys and girls, directly and all the levels of social structure, indirectly, still shows a very weak presence both in research and as topics in the media. The efforts of NGO's concentrated, for various reasons, on children working in crossroads of cities, in the commerce and services of informal economy, are still considered valuable but isolated experiences not related to the analysis of the problem of *child labor*.

Academic research gains more and more importance with significant contributions but generating results that have not enough impact on the social and the official sectors.

In my country, the juridical international, federal and state framework is adequate, although it by itself will not suffice to give a solution, as long as no policies for children and their rights are applied. In most cases, both authorities and employers

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poverty is also called alimentary poverty, is when the family income is of less than 1 minimum wage, that is, the lowest level in the socioeconomic scale.

and also the general public ignore, misunderstand or do not apply the normative framework.

The importance of Legislations and International Conventions ratified by Mexico via legislative level is minimized. These Legislation and conventions, according to Article 133 of the Mexican Constitution are supreme law in all the Union.<sup>8</sup> The political willingness to solve the problem of child labor is null. The administration has caused the invisibility of the problem and the nonfulfillment of the law, including children's rights.

In recent years, the proposals to solve the problem of child labor has given rise to a debate<sup>9</sup> between *abolitionists* and *gradualists*, the former insisting on the immediate and universal abolition of *child labor* (considering this problem similar to the problem of slavery) and the latter going for the gradual and progressive elimination, excusing on the importance of cultural specificities.

We most going to talk about some ideas to arrive- in the shortest time possible- to the abolition of child labor, as well as to the compliance with the integral , and unrenounceable, of millions of working children living between social exclusion and the unfulfillment of their specific human rights, between working and forgetting about their childhood or working and if there are lucky, surviving, lack of social protection, indifference on the part of employers and authorities and even complicity of part of the population using the fake excuse of poverty and cultural traditions which are nothing but colonial practices similar to slavery.

Through various investigations with working children and their families, I have produced and analysis for the conceptual framework (still not concluded) that goes over descriptive surveys which, without underestimating their importance, do not consider the nature of the problem and reduce it to purely ideological interpretations, besides showing ignorance or partial knowledge on this social problem.

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<sup>8</sup> Article 133. This constitution, the laws of the Congress of the Union stemming from it and all the treaties in accordance with it celebrated by the President of the republic, with the approval of the Senate, shall be Supreme Law in all the Union. The Judges in each State shall adhere to such Constitution, laws and treaties, even in cases where they go against provisions of the Constitutions or Legislations of the States. Political Constitution of the United States of Mexico. Secretary of the State, Mexico 2003.

<sup>9</sup> In my opinion, this debate is obsolete ever since 192 countries have ratified the Convention of Children's Rights and this does not constitute a privilege for children but integral rights that must be obligatory followed, above all on the part of the governments. Otherwise, the debate becomes an insult to children and their rights and to the acquired international compromises. On the other hand, the gradual elimination of child labor will always require the presence of the problem because while some children are receiving help, the other waiting for help will become adults and these, of course will not need the protection of children's rights.

In the labor law, in all countries, there is an age-based legal distinction to **forbid or permit** the incorporation of children and adolescents (minors-age) to the labor market.

Mexico has an advanced legislation for the work of women and children. The Political Constitution of the United States of Mexico and the Federal Labor Law, unlike other countries, **do not** prohibit child labor, but **prohibit adults to use labor force of children under 14**<sup>10</sup>.

“The use of labor force of children under 14 is prohibited. Children over 14 and fewer than 16 will have as a maximum working day of a total of six hours.”<sup>11</sup>”

The Federal Labor Law takes up this ban on the use of labor of children under 14 years old (General Provisions, chapter I, Individual work relationships. Second Title Second. At. 22)

In section “Child labor” two categories, generally overlooked, are distinguished in the law<sup>12</sup> : **a) Child labor** applied to children under 14 years old for which there exists a *prohibition to make use of their work* , as a measure to protect infancy and its rights; and **b) Adolescents’ labor** from 14 to 16 years old, with a rule regarding schedule, working day and types of jobs allowed for the under age workers.

The law does not set forth concessions nor exceptions regarding the prohibition to make use of Child Labor. Therefore, the application of rules or permissions issued by authorities or relatives would be inadmissible, which, in any case, would be legally null and socially unfair.

“Possibly, someone may think that the under age stated by the law, implies a legal incapacity for hiring... the prohibition imposed for not making use of the work of children under 14 years old does not outline a matter of incapacity, it is in fact a measure that leaves children without any protection. They say that there is an attempt to adjust the law to reality, and we reply that our nation, since the Constitution of 1917, prohibits and prevents the under age children’s work, and that we have to do our greatest effort to attain it. Authorizing the under age children’s work would be a treason for past, current and future generations of Mexico.”<sup>13</sup>”

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<sup>10</sup> Political Constitution of the United States of Mexico. Article 123, fraction III and Federal labor Law, Article 22.

<sup>11</sup> Political Constitution of the United States of Mexico. Sixth Title. On Labor and Social Prevision. Mexico, Secretariat of the State 2000.

<sup>12</sup> “The use of labor force of children under 14 is prohibited. Children over 14 and under 16 will have as a maximum working day a total of six hours.” Political Constitution of the United States of Mexico. Sixth Title. On Labor and Social Prevision. Mexico, Secretariat of the State 2000. The Federal Labor Law takes up this ban on the use of labor of children under 14 in its article 22. General Provisions, chapter I, Individual work relationships. Second Title.

<sup>13</sup> Dávalos José en Derechos de la Niñez (1990) Instituto de Investigaciones Jurídicas, UNAM México , p-26.

The spirit of the law is to protect children from any kind of work –not as a matter of incapacity, but as growing up individuals- with the purpose of supporting them in their education so that they live their childhood without discrimination, as one of the social justice principles.

It is important to point out **not to generalize** minor working children under one single category. The **prohibition to make use of the work** of children under 14 (**child labor**) and the **regulation** applied to adolescents 14-16 years (**Adolescent labor**). The characteristics must be considered separately, above all in designing policies and programs tending to **eliminate Child Labor** and to **improve** and **fulfill** regulations regarding **work allowed for adolescents**, fulfilling in both cases Mexican laws and international treaties, not only to respect, but to use and apply their Human Rights.

From my point of view, **I consider Child Labor as “The activities carried out by boys and girls under 14 working as subordinated employees for third persons, employers or clients, in order to obtain some income in money/in kind, through which they will meet their own basic needs or those of their families, in contrast to their Rights.”<sup>14</sup>**

Likewise, I consider **Child labor** as *the participation subordinated to employers, clients or covert employers -even if these are relatives-, in the production of goods not used for self-consumption and/or in the commercialization of merchandise as the only form for surviving.*

Employers, clients or even relatives that benefit from said work, violate the law, for which an administrative sanction is established, and the same applies for the adolescents that are not recognized as workers –since the first will be covering and breaking their legal labor relationship<sup>15</sup>.

Article 20 of the Federal Labor Law in Mexico states, in its last paragraph, that the labor relationship and the labor contract produce the same effects. The latter is generally misunderstood, since a labor relationship is being covered; for instance, the so-called ‘*cerillos*’<sup>16</sup> who work in supermarkets without a written contract between the employer and employee, therefore, there is no legal obligation for the employer.

In this regard, the federal and state laws are not fulfilled –they are dead letter- and the legal figure of Inspector of Minors’ labor does not function either.

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<sup>14</sup> Brizzio H. A (1986) cited in: Los niños de la Calle, una realidad de la Ciudad de México (1992) Junta de Asistencia Privada, Gobierno de la Ciudad de México. México p. 23.

<sup>15</sup> Article 995. The employer who violates the norm on women’s and children’s work, will be fined for the equivalent to 3-155 minim wages, calculated in the terms of article 992. Title sixteenth. Responsibilities and Sanctions. Federal Labor Law. Mexico.

<sup>16</sup> Cerillos or packers at superstores: girls or boys lending their services as packers at the cashiers in self-service stores.

The activities carried out by children as collaboration and support for the *production of goods for family consumption*, as well as those involved in the *socialization process*, which start within the family and that are progressively expanded to school and to society, are excluded from the Child labor.

The distinctive characteristic of said activities is that unlike *Child labor* (for meeting basic needs) which, for exclusion, is carried out only by poor children, those activities do belong to *socialization process* and are oriented to all children. That is the case of the school activities that are popular but inadequately named school work.

There exist other examples of *children* activities that do not properly take part in the social problem of *Child labor*, as long as it is not a covert job, substituting an adult employee or a disguised family contribution.

#### **4. Research experience**

Based on the complexity and diversity of issues involved in *Child Labor* and the interviews conducted during the exploratory stage for several months, which practically have been continued for years, most of children located in public and private sites – including street children, have declared that they live with their families and attend (or at least are enrolled) in an elementary or a secondary school.

**A)** Taking into account the said information and with the statistical support of Dr. Manuel Martínez Morales<sup>17</sup>, I decided to conduct a research in one of the **urban schools** of Popular Education, with morning and afternoon shifts, in the city of Xalapa. I elaborated three codified questionnaires. The first one to be filled in during individual interviews by all the school population. The second questionnaire was applied to each teacher (answering one part for each student). The third was applied to 91 heads of families who agreed to collaborate, (a total of 1,060 people). Additionally, taking into account the number of interviewed students and the number of relatives living with them, I obtained a population of 3,366 persons who integrated the family and school contexts of said group.

Of the total of interviewed students in both shifts (439)<sup>18</sup> from 5-15 years old, 38% have declared to work in 52 different paid occupations. House help and business help obtained the highest percentage (16% each). A range of helpers at *masonry*,

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<sup>17</sup> Dr. Manuel Martínez Morales. Investigador de tiempo completo. Instituto de Ciencias Básicas. Universidad Veracruzana.

<sup>18</sup> The questionnaire through individual interviews was applied to 83% of the students enrolled in the morning shift and 90% of the students enrolled in the afternoon shift. Absences were due to illness or family issues.

*bakery, carpentry, tortillería, and shoe repair, office boy, plumbing, tire repair, in bars and service stations. Other jobs like errand boy or girl, loader, newspaper boy, shoe polisher, packer at supermarkets, stonemason, car washer, windshield-cleaner, baby sitter, grave cleaners, fire breathers, trash collectors, cooking and selling of jelly, at the countryside, coffee collector.*

The analysis by shift showed that 30% of the students attending this school in the morning, worked in the afternoon, as compared to the 57% of children attending school in the afternoon and working in the morning. We also found siblings combining their schedules so that they could attend school and work. Working children were found in all the grades and although there are no significant differences, third and fourth grades recorded greater incidence.

The income generated by the working children at this school was used to satisfy basic needs in more than 90% of the cases<sup>19</sup>. This majority gave in the money to their mother. The money was put together with the income generated by other members of the family. The distribution of the money depended on the situations of adult employment/unemployment, illnesses and education expenses. However, even when adults had employment, above all the father or elder brothers or sisters, the children still worked as the salary was not enough to cover family expenses.

With the results obtained, I could confirm that at least at this school, the working children were the children of illiterate or functional illiterate parents who had unsteady, non-skilled jobs<sup>20</sup>. A proportional correlation was found: the higher the education of the parents, the lesser the possibility for their children to become working children, the lower the education; the higher possibility for the children to become workers at an early age. Likewise, in spite of family problems such as unemployment, alcoholism and child abuse, there was no clear sign of family disintegration, and there was no sign that family disintegration was a direct cause of *child labor*.

Once the research was done, I had several meetings with teachers and parents to inform them about the results. The meetings turned out to be warm and I left them a copy of the research for the school library.

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<sup>19</sup> 6% reported “so that they learn what to work is about” and a 4% said “instead of just being there without doing anything.” However, the income generated in both cases was used to help in the support of the home, to buy school material and “to obtain satisfactors” which refers again to basic needs, for example, tennis shoes and sports and school items.

<sup>20</sup> None of the parents answering the questionnaire had finished elementary education.

**B)** Based on the 52 types of different employments of the children of this school, we produced, with the help from doctors of the Health department of the State of Veracruz, a matrix taking into account body systems (digestive, respiratory, circulatory and muscle-skeletal system, organs of senses). Referred to as “Health risks of working children”. The aim here was to know and inform about the risks and possible adverse effects on the integral health of the children which were associated to the type of work<sup>21</sup>.

**C)** I also made a follow-up during several months of ten families related to the school who accepted to continue on their relationship with me. This approach allowed me to experience their ways of living, their parties and illnesses, always showing respect and mutual trust. One of these families was a group made up of three generations and 18 members sharing the same home<sup>22</sup>.

The illiterate grandparents (workers, one in agriculture and the other as a house help since she was 6) run now a stand where they sell candies and fruit, located in a strategic place in the city. In spite of their appalling socioeconomic situation, they managed to survive the frequent times in which the adults of the family (who were partially illiterate) lost their unsteady, underpaid and benefitless jobs (popsicle sellers, masons, nightmen) it was, on the one hand, the solidarian organization of mutual help, or reciprocal exchange similar to the one in the survey made by Larissa Lomnitz<sup>23</sup>, and on the other hand, the income generated by the children’s and women’s work what provided integration to the family group. The condition for receiving help in case of illness and lack of money to buy basic foods, was to respect the food and belonging of the other members and to give back, in the least time possible, the help received. Otherwise, they would be excluded for later help but this did not happen in this family as everyone kept their commitments with the group.

**D)** Another research experience was in the garbage dump of Xalapa, with children and their families working as scavengers or *pepenadores*<sup>24</sup> who once my presence was

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<sup>21</sup> This paper was presented at the workshop “Child labor and health risks” VII International conference on mistreatment, abuse and negligence on minors (ISPCAN) Rio de Janeiro September, 1998.

<sup>22</sup> A room serving as dormitory for each family and a common space used as kitchen, dining room and living room.

<sup>23</sup> Lomnitz Larissa Adles de (1981 5th edition) *Como sobreviven los marginados*. México. Siglo XXI.

<sup>24</sup> The Mexican scavenger is called a “*pepenador*” and sometimes parents and their children work in this looking for used items and food. Most of these people live in the surroundings of Xalapa being a very closed group. That is, no stranger is let in. fortunately, after several visits to the place and after explaining the purpose of my presence, I was welcome by the group and by the garbage truck operators who took me home after the daily visits.

accepted and the purpose of my visits explained I managed a good communication with them. Officially, they are not allowed to scavenge in the garbage and take solid wastes with them. For this reason when the garbage trucks came, the *pepenadores*, men, women and children ran to hide. This activity provides hundreds of families with food and money from recyclable items. For example, they set aside old mattresses to sell them to a mattress factory that send a truck to pick the up. This factory is supposed to re-use the interior of the mattresses for a new production. The delivery of these items takes place when a number of mattresses (agreed upon the two parties) is collected.

Other products that can be recycled in factories are cardboard, glass and iron. This needs the use of the labor of specialized *pepenadores*. I met one *pepenador* who specializes in gathering metal wastes know as “*Cachero*.” He is about 55, skinny who said he had never been ill and was the head of three generation family, all of its members dedicating to the same activity, *pepenadores* who were born are always live near a garbage dump. *Cachero* told me he did not know the city, and that he was illiterate. Only of his children did something different, he was a taxi driver whom he did not see often. His grandchildren lived with him. Some went to school but others did not. One of his grandchildren, about 10 years old, was always with Cachero and he looked for used shoes in good state. Once in a while he keep a pair of shoes for himself and the others, he traded them for other items.

One of the experiences of one of this scavenger children –he told me himself about this and then the story was confirmed by his parents- was that one time when he was looking for something that he could trade, he heard a baby crying. He saw a very small foot sticking out of some color sheets. It was a newly born baby. He ran to tell his parents and they came back to the place they found several people dressed in white gowns like the ones doctors wear, women crying (supposedly nurses) and well dressed (jacket and tie) men having it out.

At the entrance of the place there were several ambulances of a medical institution (which they identified but for obvious reasons I cannot mention). The children told them about the fact but after looking for the baby in tons and tons of garbage they could not find it. They all thought that the heavy machinery used in that dump could have erased all the traces of the baby if there was ever a baby. There was nor official report and there was no article in the newspapers on the next day.

The scavenger families sometimes boxes of eggs that sometimes producer dumped to maintain the stability of the price of the product in the market. The same



happened with fruit and vegetables. Used clothes, briefcases, bags, suitcases and wallets with important documents and even cash; these are the kind of things found by *pepenadores* in the dumps. Some have found golden rings and other things that they sell the truck operators. The garbage came from urban neighborhoods of middle and high class homes.

The experience in field work, observation, interviews, data collection and knowledge on the programs in various Latin American and Asian countries on Child labor has been continuous affirming in all cases that working children who also attend school have many working days as they also perform other activities in their homes: girls mainly look after their younger brothers and sisters, they do the cooking, the cleaning, the dishes, the washing while the mother goes to work and even if the mother does not work, girls collaborate and more than this, they are in charge of responsibilities that should be held by their parents. As to the boys, they do not have time to do their school homework and they do not have time to play, practice a sport and they do not have the time for dreaming<sup>25</sup>.

In this year 300,000 children whose ages range between 10 and 14 drop school to incorporate themselves in the labor market, be it in the street or in temporary occupations with which they can generate some income. The undersecretary of Basic Education of SEP, INEGI, CONAPO, and OIT, mention that school absenteeism is caused by the precarious economic situation of the Mexican families. The rural zones report the highest indexes of school dropping at early ages because the families depend on the daily income of all their members<sup>26</sup>.

### **5. A modern form of slavery.**

The direct anthropological work with the hard-working children and their families, the pursuit of their conditions of life and of the daily fight to overcome their lacks reinforced the idea that still in the XXI century, persist many forms of slavery, with invisible shackles. One of them is the child labour.

The " slavery " embraces diverse violations at the moment to the human rights. Besides the traditional slavery and it is her about slaves, it understands such abuses as the sale of children, the child prostitution, the use of children in the pornography, the child labour, the sexual mutilation of the girls, the use of children in the armed conflicts,

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<sup>25</sup> Brizzio H. Araceli (1997) Trabajar y estudiar, doble jornada. BASICA Revista de la escuela y del Maestro. Año IV July-August Number 18 pp. 27, 32.

<sup>26</sup> Leticia Robles de la Rosa. "Al año, más de 300,000 niños dejan la escuela para trabajar. LA CRONICA de hoy. Director general editorial: Pablo Iriarte/año siete. Novel ver 30<sup>th</sup>, 2003.

the servitude for debts, the mandatory work, is her about people and certain practices of the apartheid régime and the survival of colonial structures.

The practices similar to the slavery are generally hidden or secret. In this way, it is difficult to know their magnitude, to discover them, to sanction them or to suppress them. The victims, due to the fear of reprisals, are not in possibility of denouncing these situations of abuse. In spite of their secrecy, they exist enough tests that the practices similar to the slavery are common and they are very diffused. Coarse to mention a recent estimate of the International Organization of the Work: there is exploits the work of 100 million children at the moment in early ages.

The work of girls and children in the domestic service of other people's homes, they don't only work many hours for a miserable salary, but rather they are particularly exposed to all kinds of abuses, under similar conditions to the slavery.

This problem has not still been sufficiently studied, documented, neither diffused. One of the scarce studies in Peru 110,000 girls and adolescents work as domestic employees in conditions of exploitation and 43% of them you didn't attend the school. They don't have labor schedule, a great percentage doesn't receive remuneration, they don't enjoy vacations and many of them are subjected to the verbal, physical abuse and sexual pursuit. "The slavery that imposes the domestic child labour is invisible for the own family, the same girls and the society.

The work of the children is easy requested for that is very cheap for the employers besides that the children are more docile and easier of disciplining that the adults and they are too afraid to protest. The official source of ILO, mentions that there are children's thousands among 7 and 10 years of age that you/they work 12 or 14 daily hours and they win less than the third part of the wage of an adult. However, still in the supposition of elevating them the wage, the problem is the rupture of its integral development and the violation to its rights.

Still when the slavery was abolished in England (1807) and in México Miguel Hidalgo made it for the first time in America in December of 1810, It continues existing in forms that are expressed in a diverse way. It is possible that it persists like a mentality of the population's part in many countries.

## **6. International instruments.**

Next I mention the instruments that norman the Child labour and that they acquire obligatoriedad for all the governments that have ratified the Conventions from 1919 .

**1) Convention on the Rights of the Child (1989)** it outlines the doctrine of integral protection. However, it is necessary to take into account the specific article.

**Article 32 1.** The 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 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.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of this article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- (a) provide for a minimum age or minimum ages for admissions to employment,
- (b) provide for appropriate regulation of the hours and conditions of employment; and;
- (c) provide for appropriate penalties or other sanctions to ensure the effective enforcement of this article.

The complexity of the problem outlined by international organizations, by the International Labor Organization and UNICEF, mainly, together with the lack of comparative studies on the matter, the international community's concern considered the search for consensus around the worst forms of child labor. The purpose was to elaborate universal norms for its elimination of the problem without leaving out Agreement 138 on minimum age, which stimulated cultures around the world to consider said labor practices as unacceptable for children and to immediately prohibit them, without abandoning the idea of the eventual **abolition of all kind of Child Labor.**

**2) the Agreement 182** on the prohibition in the worst ways of child labour and the immediate action for their elimination, as well as their Recommendation 190 (June 17 1999) it is the modernized international instrument in the International Organization of the Work (ILO) it Recaptures in their Foreword, as fundamental instruments, the Convention on the Child's Rights (1989) the **Agreement No.138** and the Recommendation 146 on the minimum age of admission to the employment 1973, with application to all the sectors of the economic activity, When ratifying it, the States Parties commits to follow a national politics that assures the effective abolition of the work of the children: "one of this national politics's elements is the fixation of a minimum age that is not inferior to the age in that the school obligation ceases or in any event to the fifteen years".

It is also mentioned that in the countries in development, the minimum age has noticed 14 years and a 12 year-old age is even specified to make light works and Remembering that some in the worst ways of infantile work are object of other international instruments, in particular the Agreement No.29 on the mandatory work, 1930 and the supplementary Convention of the United Nations about the abolition of the slavery, is her about slaves and the institutions and practical similar to the slavery, 1956. It adopts, with date 17 of June of 1999 the following **Agreement No.182.**"

In the Article 2 of this Agreement and their Recommendation, again it is designated as boy to all person smaller than 18 years.

Article 3: To the effects of the present Agreement, the expression <the worst forms in the infantile work> it embraces: to) all the forms of slavery or the practices similar to the slavery, as the sale and the traffic of children, the servitude for debts and servant's condition and the mandatory or obligatory, included work the mandatory or obligatory recruitment of children to use them in armed conflicts; b) the use, the recruitment or the offer of children for the prostitution, the pornography production or pornographic performances; c) the use, the recruitment or the offer of children for the realization of illicit activities, in particular the production and the traffic of narcotics, just as they are defined in the pertinent international treaties, d) the work that for their nature or for the conditions in that it is carried out, it is probable that it damages the health, the security or the morality of the children. Agreement Number 182, Geneva. ILO 1999.

Also, the Program of Action of the Recommendation 190, mentions:

"**3.** when determining and to locate where they are practiced the work types to that it refers the article **3, d)** of the Agreement, they will take in consideration, among other things: **a)** The works in that the boy is exposed to abuses of physical, psychological or sexual order; **b)** the works that are carried out low earth, under the water, in dangerous heights or in closed spaces; **c)** the works that are carried out with machinery, teams and dangerous tools or that they bear the manipulation or the manual transport of heavy loads; **d)** the works carried out in a half unhealthy one in the one that the children are exposed, for example, to substances, agents or dangerous processes, or at temperatures or levels of noise or of vibrations that are harmful for the health, and) the works that imply specially difficult conditions as the lingering or night schedules, or the works that retain the boy unjustifiably in the employer's local."

"**4.** regarding the work types to that one makes reference in the remote d) of the article 3 of the Agreement and the paragraph 3 of the present Recommendation the national

legislation or the authority competent, previous consultation with the organizations of employers and of interested workers, they will be able to authorize the employment or the work starting from the 16 year-old age, whenever they are fully guaranteed the health, the security and the morality of those children and that these have received instruction or appropriate and specific professional formation in the branch of corresponding activity."

The foregoing inspired Agreement 182 that states the prohibition of the worst forms of Child Labor and the immediate action for its elimination, as well as the recommendation 190 of the International Labor Organization (ILO) ratified by Mexico on June 30 th, 2000<sup>27</sup>

"Professor Mario de la Cueva mentions 'The legal norms are an ethical force given to human beings' conscience by people for justice in social life. When said norms are broken, the owners of rights and the State institutions must demand their fulfillment. *If the first agree with the violation of their rights, they have begun to accept themselves as slaves.* The second ones' duty is to repair the violation, since they have the authority to impose the justice of the right."<sup>28</sup>

Reflection:

Historically, Human Rights –including women’s rights and children’s rights have been conceptualized within an important juridical framework, which results in very ethic legislations but, in practice, this has not been translated into the application and observance of the laws. It is not until the Convention on Children’s Rights (CCR) and the Convention of Elimination on all forms of Discrimination against Women (CEDAW) and the obligations of the agreeing countries that it is possible to have progress on the design and implementation of economic-social policies. The superior interest in the child –basic principle of CCR- requires to become itself in one of the essential principles of this policy. Nonetheless, this philosophical principle s is not a blank check which everybody can fill depending on their subjective interpretation. It must be translated into **non-discretionary** public norms and policies that are coherent with the spirit of the CDR. That is, the social rights of the children, boys and girls, and adolescents will be sustainable only within the context of an economic policy which

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<sup>28</sup> Mario de la Cueva. Prologo a la primera edición del tomo 1 de la obra: Nuevo Derecho mexicano del trabajo. En Barajas Montes de Oca Santiago. Derecho del Trabajo. Instituto de Investigaciones Juridicas. UNAM, México 1990, p. 7.

guarantees the allocations of the resources for the development of strategies for public action, both on the part of the State and the private sector and the civil society.

The Child labour is a social problem. The proposal of the Basic Rent and the reflection that it is derived of this Congress will provide new horizons to finish the conditions of social exclusion that millions of hard-working children live.

- The category of Child labor should only be applied to those children under 14. This social problem must be abolished
- Child labor – in all its forms- violates the integral human rights of children (rights proclaimed in CDN)
- Child labour is a modern form to slavery
- Its is urgent that governments, together with social groups, work together to design, implement and comply with the public policies for the children and their rights. Their attendance and permanency in the school are our fight for a world without infantile Work.

RIGHTS ARE NOT THE PRIVILEGE OF THE MAJORITIES

CONFORMISM IS THE ENEMY OF FREEDOM

WHEN THE LAW is UNFULFILLED, THE DEMOCRACY is

UNFINISHED

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