



ILO CONVENTION 182 ON THE WORST FORMS OF CHILD LABOR: A MEMORABLE AND CHALLENGING JOURNEY

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In June 1998, the Delegates from more than 170 countries attending the International Labor Conference in Geneva were surprised by the attendance of 500 children and adolescents at the Plenary Session. For the first time in history, the strong security apparatus of the Palace of Nations, headquarters of the UN, admitted the entry of visitors not submitted to the previous accreditation process. After all, the visitors were none other than the rights holders whose protection motivated that meeting. Coming from the most diverse parts of the world¹ (GLOBAL MARCH AGAINST CHILD LABOUR, [20--]), those children and adolescents gave voice to the longing of their entire childhood (especially the nearly 246 million victims of child labor) for effective actions to end inhuman exploitation, which stole dreams and compromised the future of girls and boys.

Speaking at the International Labor Conference, the activist for the rights of children and adolescents Kailash Satyarthi² urged the assembly to adopt an instrument that would fulfill the international community's commitment to protecting children against economic exploitation and asserting their rights, especially the right to education and the full development of their potential. *From exploration to education*, the motto was repeated to exhaustion, in order to mark the beginning of a new era, in which all children and adolescents would be entitled to benefit from free, quality public education, capable of ensuring the development of their full potential and the prospect of a happy future.

The Director-General of the International Labor Organization, Michel Hansenne³, in addressing his final comments to the Conference, noted:

[...] the world is changing, and this change can only be for the better. I must add: as long as we want it to be so.

Delegates witnessed a demonstration of this willingness to act when the Global March Against Child Labor erupted in this auditorium in a vibrant and colorful crowd. In their plenary speeches, many of you welcomed this initiative launched by non-governmental organizations in developing countries, along with those in the developed world. This shows that non-governmental organizations, trade unions, employers' organizations, and associations that defend the rights of the children can work together, regardless of national, cultural, religious, or other differences.

This should encourage us for the future. We must hope that this synergy can be sustained and extended to other practical activities. In an area such as child labor, and in a context of globalization of the economy, universal respect for a set of values increasingly requires a joint effort: within the scope of laws, by those with decision-making power; technical cooperation, and mobilization of public opinion.

More than a peaceful invasion of the Conference Room, the purpose of the March was to make itself heard, on behalf of tens of millions of children working in extreme conditions, by delegates to the Conference and by the members of the Committee installed to examine the conclusions concerning new instruments on the worst forms of child labor. I believe that they were heard (ILO, 1998).

The adoption, in the subsequent year (1999), of Convention no. 182 and Recommendation no. 190, by the unanimous vote of the delegates attending the International Labor Conference, confirmed the perception of the ILO Director-General: the voices of children and teenagers made themselves heard. As a result, the international community had taken a significant step towards affirming the rights of children, making a commitment to eliminate, as a matter of urgency, the worst forms of child labor.

Another observation by Hansenne for the future, today takes on the characteristics of prediction:

The adoption of these instruments, and especially the **universal ratification of the new Convention**, should bring new impetus to the activities of the International Program for the Elimination of Child Labor (ILO, 1998, emphasis added).

ILO Convention no. 182 was ratified at a pace never seen in that Organization. In the same year of its adoption, five countries deposited their respective instruments of ratification with the Office of the Director-

General of the ILO, including the United States of America⁴ – a country that, despite its economic and political importance, has a timid history in relation to the number of ratifications of international standards within the scope of the United Nations⁵.

During the first decade of the 21st century, 166 other countries ratified Convention no. 182, and, in 2020, the centenary ILO witnessed the first universal ratification of one of its instruments⁶.

This is especially noteworthy, considering that one of the reasons for adopting a new instrument on child labor was precisely the low number of ratifications achieved by Convention no. 138 of 1973. In 1994, 21 years after its adoption, only 46 countries had ratified the Convention (BELEKE; MEYERS, 1995). At the time, it was frequent, among representatives of governments of countries in conditions of lower economic development, the justification that Convention No. 138, while relevant, established ambitious goals, which could not be achieved immediately. They argued that ratification of the Convention could impose obligations that are difficult to implement, leading to a situation of non-compliance, which, in turn, could have a negative impact on its international image and on its commercial relations.

Abstracting the *political will* component, already highlighted by Michel Hansenne in the excerpt transcribed elsewhere, the fact is that the opportunity was auspicious for the ILO constituents, who decided to explain in the new instrument the *worst forms* of child labor, in relation to which countries that have ratified undertake to adopt *immediate and effective* measures to ensure their *prohibition and elimination*, as a matter of urgency.

The worst forms of child labor are defined in Article 3 of Convention no. 182, which divides them into four types:

- i) all forms of slavery or practices similar to slavery (including, among others, the sale and trafficking of children, debt bondage and forced or compulsory recruitment for use in armed conflicts);
- ii) use, demand, or offer of a child for the purpose of prostitution, production of pornography or pornographic performances;
- iii) using, recruiting and offering children for illicit activities, particularly drug production and trafficking;
- iv) jobs that, by their nature or the circumstances in which they are performed, are likely to harm the child's health, safety, and moral⁷.

It is important to note that Convention no. 182, in its preamble, reaffirms the centrality of Convention no. 138 in the ILO's normative system,

regarding child labor. The parameters and objectives of Convention no. 138 continue to guide the work of ILO on the subject. Convention no. 182 added a **priority** criterion, highlighting the need for effective and immediate action to promptly eliminate its worst forms. It follows that the Conventions of nos. 138 and 182 are not mutually exclusive; they complement each other.

Such complementarity was perfectly understood by the General Assembly of the United Nations, which, when adopting the 2030 Sustainable Development Agenda, included, in the Sustainable Development Goal 8 (Decent Work and Economic Growth), goal 8.7, of the following content:

Take **immediate and effective** measures to eradicate forced labor, end modern slavery and human trafficking, and **ensure the prohibition and elimination of the worst forms of child labor**, including recruitment and use of child soldiers, and **by 2025 end child labor in all its forms** (emphasis added).

In other words, the goal to be pursued by countries is the effective elimination of child labor **in all its forms**, through actions and programs with a fixed term⁸, national policies, and international cooperation, among other measures. As part of this effort, **immediate and effective** measures must be taken **to urgently ban and eliminate** the worst forms of child labor.

The correctness of the International Labor Conference's decision to adopt Convention no. 182 is evidenced not only by its universal ratification. It is observed that the number of ratifications of ILO Convention no. 138 has also grown exponentially, reaching currently 173⁹.

It is important to remember that, after the deposit of the instrument of ratification with the Office of the Director-General, the member country begins to submit to the mechanisms for regular monitoring of compliance with the obligations provided for in the respective instrument, being obliged to send periodic reports on the situation of the rights therein provided by law and in practice. This has allowed ILO to maintain a very fruitful exchange with the countries that have ratified the Conventions nos. 138 and 182, with important repercussions on the situation of child labor worldwide.

The estimated number of child labor victims in the world has dropped by almost **40%** on average since 2000. According to ILO data, in **2000** (ILO, 2013) there were 245.5 million children in the age group from 5 to 17 years

old, 170.5 million of them working under conditions of risk to their health, safety, and morale. In **2016** (ILO, 2017), there were 152 million children who were victims of child labor, 73 million of whom were at risk.

In the Americas, in 2016 the number of victims of child labor was 10,735,000, of which 6,553,000 were at risk – a drop of **24%** compared to 2008, when the numbers were, respectively, 14,125,000 and 9,436,000.

It is true that these advances did not result only from the adoption of the new Convention. The prioritization, in several countries, of **public policies** aimed at the universalization of basic education, health care, and food for school-age children and adolescents, in addition to income transfer programs conditioned to school attendance had a great impact on the global reduction of child labor.

Equally important was the implementation of **international technical cooperation** programs, led by the ILO and UNICEF, aimed at developing national capacity to develop and implement strategies to fight child labor, as well as monitor their progress¹⁰.

On the other hand, the requirement of observance and effective implementation of the fundamental ILO Conventions¹¹, established in several bilateral **international trade** agreements, including within the General System of Preferences¹², as a condition for access to special incentives, also positively impacted the picture, both from the perspective of the number of ratifications of ILO Convention no. 182, and the adoption of concrete measures to eliminate child labor, especially in countries in search of better placement of its products on the international market.

Although the favorable evolution of the situation gave rise to a certain optimism, in a Report released in **2018**, the ILO already warned of the fact that the challenge remained “formidable” in its proportions, and the pace of the decline of the indicators slowed down (ILO, 2018). Between 2012 and 2016, the number of child labor victims in the world fell by 1%, while the reduction in the period from 2008 to 2012 was 3%. The number of children aged up to 12 years remained practically stable. If such a pace were to be maintained, the outlook for 2025 (the date set in the UN Sustainable Development Goals, goal 8.7, for the elimination of child labor in all its

forms) would be **121 million** children and adolescents who are victims of child labor.

The situation was serious and required urgent action. According to the report mentioned, “even if the pace achieved between 2008 and 2012, the fastest recorded so far, would not be enough. We are moving in the right direction, but we need to accelerate the pace a lot” (ILO, 2018).

The situation, already tremendously challenging, came to seriously deteriorate in **2020**, with the unprecedented health and economic crisis triggered by the COVID-19 Pandemic. According to ILO estimates (ILO, 2020b), the number of hours worked worldwide fell by 14% in the second quarter of 2020 – equivalent to the extinction of **400 million** full-time **jobs**. The impact on the Americas is even greater, reaching 18.3%.

Even greater is the impact suffered by **the informal sector** – where most of the urban child labor is found in the world (ILO; UNICEF, 2020). In the informal economy, there is virtually no substitution of income or savings. For the overwhelming majority of the world’s more than 2 billion informal workers, not working due to lockdown or other containment measures means losing their livelihood and of their family (ILO, 2020a). And vulnerable families, without access to social protection measures, when losing their livelihood, are more likely to resort to child labor.

Add to that the effects of the Pandemic on educational systems worldwide, affecting almost 1.6 billion students, in 190 countries on all continents, according to data from the United Nations (UN, 2020). And worse: the recovery of educational systems is not guaranteed, as the health and economic crisis puts pressure on public budgets, compromising the already insufficient investment in quality education in several countries – especially those with low and middle income (UN, 2020)¹³. With the closing of schools and the lack of mechanisms that allow the continuity of the educational process, the increase in **school dropout** rates is foreseeable, and it is estimated that another 23.8 million school-age children and adolescents will join the more than 250 million out of school – an increase of 9.5% (UN, 2020).

It is not difficult to see, in this scenario, that children and adolescents belonging to vulnerable families, without access to education or social protection, are at greater risk of becoming victims of child labor.

According to data from the ILO and UNICEF, **55%** of the world population has no access to any **social protection** mechanism. They are the most vulnerable to shocks and crises, such as the one that now affects the world economy, both in the short and long term (ILO, UNICEF; 2020). For the World Bank (IBRD, 2020b), the number of people living in conditions of **extreme poverty** (with *per capita* income below 1.90 dollars per day) in 2020 is expected to suffer an increase in relation to 2019 in the order of **40 to 60 million** due to the Pandemic. This is a reversal of a sustained downward trend since 1990 when about 36% of the world population was in extreme poverty. In 2015, this percentage was 10%, corresponding to 734 million people.

ILO and UNICEF (ILO; UNICEF, 2020) warn that, according to statistical evidence, the **1%** increase in extreme poverty rates leads to an increase of at least **0.7%** in the number of victims of child labor.

A more concrete notion of the dimension of the crisis can be obtained by applying these calculation parameters to the Brazilian reality. According to the 2019 IBGE Continuous PNAD, 13.5 million people (6.5% of the population) lived below the extreme poverty line (NERY, 2019)¹⁴. World Bank estimates (IBRD, 2020a) indicate a likely **8%** retraction in Brazil's Gross Domestic Product in 2020. According to studies by Kings' College London and the National University of Australia (BARRUCHO, 2020), a retraction of this magnitude of the national GDP would have such an impact on the income and consumption of Brazilians, that between 700,000 and 3.3 million of them would go into extreme poverty – that is, a 23.9% growth in the worst case, and 5% in the best case.

Applied to the ratio of extreme poverty *vs.* child labor (1 *vs.* 0.7), the probable increase in the number of child workers in Brazil in 2020 would range between **3.5%** and **16.73%** – a jump that could bring the current numbers closer to the 3.2 million victims of child labor registered by IBGE's PNAD in 2013 (FNPETI, 2014).

ILO Director-General Guy Ryder¹⁵, when celebrating the universal ratification of Convention no. 182, referred to the trajectory of this instrument as “a memorable journey” (RYDER, 2020). But he recalled that, despite the successes achieved, with the reduction of child labor rates by more than 100 million since 2000, 152 million children are still victims of this illness. And the catastrophic effects of the health and economic crisis threaten to reverse the advances made slowly, over decades. “Let’s speed up the pace” – he proposes, in an exhortation to the international community to translate into concrete actions the commitments assumed with the ratification of Convention no. 182 and put an end to all forms of child labor.

The journey is certainly memorable. But it is also long and challenging, full of mishaps. The universal ratification of ILO Convention no. 182 is a longstanding objective and deserves to be celebrated. But the bigger challenge is just beginning. To correctly implement the obligations enshrined in the text of the Convention 21 years ago, by the **unanimous** vote of the representatives of workers, employers, and governments attending the International Labor Conference, is more than moral duty, a **legal imperative** – since, at this point, all countries members of ILO have in their legal systems a powerful, clear, and precise instrument on the way forward in the fight against child labor.

The strengthening and qualification of the State’s **inspection** apparatus, as well as the Justice system, is fundamental. The **criminal classification** of exploitation of the worst forms of child labor, with the imposition of adequate and dissuasive sanctions, is also a necessary measure. But no effort will be successful if it is not accompanied by the implementation of **public policies** that ensure everyone’s – especially the most vulnerable – access to fundamental rights, such as health, education, leisure, protection, social security, and assistance, among others. Obviously, the implementation of these measures will depend on the allocation of the necessary resources – which, in a context of crisis, suffer harsh competition with demands from other government sectors. It is time to demonstrate good faith in fulfilling obligations assumed before the international community, as well as an appreciation of the principle of absolute priority for the rights of children and adolescents.

ENDNOTES

- 1 The Global March Against Child Labor brought together more than 1,400 non-governmental organizations, spanning 103 countries on five continents, mobilizing more than 7 million people against child labor.
- 2 Kailash Satyarthi, from India, creator of the Global March Against Child Labor, was awarded the 2014 Nobel Peace Prize.
- 3 Belgian Michel Hansenne was the 8th Director-General of the ILO between 1989 and 1999.
- 4 The other four countries are: Seychelles (09/29/1999); Malawi (11/19/1999); Ireland (12/20/1999), and Slovakia (12/20/1999).
- 5 The United States is the only country in the world that has not yet ratified the 1989 Convention on the Rights of the Child.
- 6 The last country to deposit the instrument of ratification of Convention no. 182 was Tonga, on 8/4/2020.
- 7 According to article 4, item 1, of Convention no. 182, such types of work “will be defined by national law or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into account the relevant international standards, particularly paragraphs 3 and 4 of the 1999 Worst Forms of Child Labor Recommendation.”
- 8 On *Time Bound Programs*, see the ILO International Program on the Elimination of Child Labor – IPEC (ILO, [20--]) page.
- 9 They did not ratify Convention no. 138 until 9/13/2020: Australia, Bangladesh, Cook Islands, Iran, Liberia, Marshall Islands, New Zealand, Palau, Saint Lucia, Somalia, Timor-Leste, Tonga, Tuvalu, and the United States of America.
- 10 The ILO International Program on the Elimination of Child Labor – IPEC was launched in 1992, with six signatory countries (Brazil, India, Indonesia, Kenya, Turkey and Thailand). It grew rapidly, becoming *the world’s largest program exclusively focused on child labor*, according to the Global Report presented to the 95th International Labor Conference: *The end of child labor: an objective within reach*. In 2006, it was present in 86 countries (ILO, 2006).
- 11 There are eight fundamental Conventions, as defined in the ILO Declaration on Fundamental Principles and Rights at Work, adopted in 1998, related to four principles, which must be observed by all member countries of the Organization: Convention no. 87 and Convention no. 98 (protection of freedom of association and collective bargaining); Convention no. 29 and Convention no. 105 (elimination of forced or compulsory labor); Convention no. 138 and Convention no. 182 (abolition of child labor); and Convention no. 100 and Convention no. 111 (elimination of discrimination in employment and occupation) (ILO, 1998).
- 12 This is the case of the *General System of Preferences “Plus”* of the European Union (EUROPEAN COMMISSION, 2020). The United States of America has introduced requirements regarding fundamental labor standards, as in the case of the Free Trade Agreement signed with Jordan, effective from 2001 (article 6) (USA, 2000). Similar provisions are found in the Free Trade Agreements signed with **Chile**, effective from 2004 (articles 18.1 and 18.2); **Peru**, effective from 2004 (articles 17.1 to 17.3); **Bahrain**, effective from 2006 (articles 15.1 and 15.2); **Dominican Republic and Central America** (CAFTA), effective from 2006 (articles 16.1 and 16.2); **Colombia**, effective from 2012 (articles 17.1 to 17.3); **Panama**, effective from 2012 (articles 16.1 to 16.3) and **Korea** (KORUS), effective from 2012 (articles 19.1 to 19.3), among others.

- 13 According to the UN report, the **deficit** for financing quality education worldwide, which was around US\$ 148 billion per year, is expected to increase by up to a third.
- 14 Brazilian Institute of Geography and Statistics – IBGE: National Household Sample Survey – Continuous PNAD 2019 (data referring to 2018).
- 15 Briton Guy Ryder is the tenth Director-General of ILO, from 10/01/2012 to the present date.

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