

Questionnaire of the Fourth Commission.

Working condition for children

MEXICO

1. Has your country provide for a legislation or protective measures concerning children at work?

YES.

Our constitution establishes the right to work as an individual guarantee and social right.

This is an individual guarantee that all Mexicans have, is to practice the work/job that is more convenient to them, have been licit as shown in the 5th Article in our constitution.

Any person can't be forbidden to dedicate to a profession, business, industry or work that is convenient to them as long as it is. The practice of this right only could be forbidden by judicial determination, when is deny the rights of third person or by government resolution, to decree in the laws terms, when is affected the society rights. Nobody can forbidden the product of his/her work only judicial resolution has the faculty to place it.

In the affirmative, specify the purpose and main lines, particularly:

- **Minimum age for employment**
- **Differences in rights base on ages;**
- **Special working condition for children.**

The same way, the work right is seek by the Constitution as a social right, a class right

The Article 123 in its first paragraph, establishes:

FRACTION II. It is forbidden; the unhealthy or hazard labors, the night industry work and all the works after ten o'clock at night, under age of sixteen years old.

FRACTION III. It is forbidden to place or to practice at work under age of fourteen years old. The older of this age and the under age of sixteen should has maximum of six hours working.

This means, for general work, the minimum age to work is fourteen years old. The older of fourteen years and the under sixteen, only could work six hours, during six days a week as a maximum. The older of sixteen years could work any hours during day and have ordinary working.

It is forbidden by Constitutional warrant, to employ under fourteen years old. Juridical is avoiding the work relation if the person is under fourteen years old. The patron/boss, who knows about the minority of the age of his/her employee, has to separate him/her off the work, because it is against the Constitution and the law. However, the patron has to pay the incomes and the benefits owe to the employee, other way we are incurring of illicit enrichment.

Independently of the constitutional and legal prohibition, if the subordinate personal service is given, there is a working relation and that are include all the legal results. If the patron-boss is not respect the working relation he-she is incur penal responsibility.

The prohibition of work under fourteen years old, correspond to the older of fourteen years and under sixteen years old who has not complete the obligatory education (grade 1-9), except that correspond authority approve the occupation of the children, to considered that are compatibility between the studies and the work, (article 22), it is considering obligatory education elementary school and middle school (grades 1-9) as is placed at the 1st paragraph in the Article 3rd of the Mexican Constitution.

It is necessary to specify that is established the forbidden of the work under fourteen years old children, it is not a question of physic disability, is a protection measure for the children. There is a protection for the whole develop of the physic; mental faculties of the workers and the possibility of the normal obligatory studies must be ending. The nation needs to save the elemental develop of the children.

In some specify activities and jobs, the law request other minimum age for work. Example: it is forbidden the work occupation under 15th years old, and 18th years if is relate to ammunition room or firebox inside the ships. (Article 191), in the same way, is prohibit the occupation in the public service to the children under 16th years old at zones of federal jurisdiction (Article 267).

The reason that the minimum age was abroad to the admission to work at the ships as ammunition room and firebox, because it is require strength and ability to do it. Therefore, request to be far away for a long period from the family, and this activity is stronger hard; in the work of the public service there is a strength waste able to retain the normal develop of the children.

Theremore, children older of 14th years old and under 16th years, they need their parents or guardian authorization, if are missing, has the responsibility the Union of they belong to them, the Arbitration Meeting, of the work Inspector or the politic authority.

The older of 16th years can offer their work or service freely, this means, they have the plenty capacity to make work contract by them selves.

Referent to the States Workers domination, whose fundamental rights is placed in the Part “B”, and its reglamentary Law, the Federal Law of the workers to the State Service, the children under 16th years have the legal faculty to work and to receive correct income and practice the action that is requiring by legal (article 13).

The workers children that are able by their selves to receive incomes that is correspond to their work and to execute the actions that is correspond to them (Article 23, second paragraph). In the civil right under 18th years them can't use their properties, donation or inheritance, until they are after 18th years. In the right of work the reason to receive personal incomes there are confirm their quality of worker and their capacity to do all the labors rights.

The work of older 14th years and under 16th years they must be under special security and protection of the work inspection (Article 173). Only can be use the children work that present medical report that show their aptitudes to work; therefore, frequently has to summit to the medical tests that is determinate the work inspection.

However, the children under 16th years have work limits:

- Shops that sell alcoholics beverages. (As: bars, taverns,)
- Works susceptible to affect the morality or the good manners (business called “blacks” or illegal business)
- Street vendors, only by special authorization of the work inspection;
- Subearth works or marina works (mine, tunnel)
- Dangerous and unhealthy labors (labs, gas stations)
- Works superior to their strength and works that retain or block their normal develop, and physic (hard workers, storage workers).
- Industry business after 10 p.m. (night watcher, private security).

Under 18th years old is prohibit the night business work (article 175, Fraction II); foreign country work, only if there are professional technical, artists, sport players, and specialize workers (article 29) and how referent before as ammunition room's workers or firebox's workers in the ships work.

The law is forbidden under 16th years old work extra-hours and specials journal in Sundays and obligatory day off. If the patron/boss infringes in the law, and he asks to the child under 16th years old work extra-hour, he/she has to pay each hour triple; the adults are paid double the first 9 extra-hours accumulate during the week and after the 10th extra-hour is paid triple (article 178).

In the case if the child lends service in his/her day off week or obligation day off as January 1st or September 16th the patron has to remunerate the incomes as the same as the adult worker, it means with a triple income (article 73,75, & 178).

These forbidden are establishing with the result of the children can have the possibility to study, go to school, join with her/his family and friends, practice sports, etc. It is trying to protect the children familiar and social develop.

The children have the right to get annual period of vacation paid, as 18th days labors as minimum, (article 179), also the patron/boss has to pay a 25% of Prima-Vacational (extra money that workers receive for Easter and Summer vacations) over the incomes are relate to the vacation period.

Taking the fragile condition of the children workers, the legislator decided establish a long vacation period; during the first year of the service to left them recuperate of the work's fatigues.

This benefic should be more palpable if is consider that, on base the minimum rights and accordance to the adult's vacations determination, as the agreement progressive increase system consignee in the Article 76, a child older than 16th years has the right to have a break or take off 18th labor days, only when has been complete 19th year at the work.

As a different of the Federal Work Law, the Federal Workers Service of the State Law, there isn't considering a special section for children, only refer to the minimum age for admission work at the Federal Public Service at the Article 13, that refers: "THE CHILDREN WHO ARE OLDER OF 16TH YEARS COULD HAVE THE LEGAL CAPACITY TO GIVE THEIR SERVICE, RECEIVE THE CORRESPOND INCOMES AND TO PRACTICE THE ACCIONS CAME FROM THE PRESENT LAW".

However, in its Article 11, Burocratic Law, establishes that are not predicted in it, there will applying supplementary and its order of the Federal Work Law, the Federal Legal Procedures Code, the Ordinary order Laws, the Customs, the use, the general principles of the rights and the fairness

The rights of the Federal Workers to State Service Law give are renounceable (article 10). The Bureaucratic Law prohibits the dangerous, unhealthy or nights work, labors condition to under 16th years children (article 14, fraction II); When are establishes the general work conditions, as unhealthy or dangerous labors that children can't work (article 88, fraction V).

To referent to the others rights and benefic of the bureaucrats, the children are sharing the same benefic that adults.

When the children have more than 6 months of service, it is require to have 2 annual periods of vacations, of 10 labors days each one. With an additional incomes of the 30% over the salary if correspond during the vacational period (article 40, paragraph 3rd). that means, that vacation period for the bureaucrats are more abroad that general workers; however, we want to clear that beginning of 16th years, men and women have the legal capacity to give their services, to receive correspond incomes and to practice the action came out from the Law.

2. What are the sanctions (applied or applicable) in case of breach of children's rights at work?

The patron/boss that hire under 16th years, have additional obligations, as: demand to show a medical reports that says that children are able to work; to fill a special inspection card that include: born day, work class, schedule, incomes and others general work conditions; to allow work to the children so they can have enough time to do their studies program; giving to them technical instruction and training; giving to the authorities the request inform.

As a punishing to the patron/boss who is hire under 16th years old, the Article 995 arrange: "...The patron/boss who violate the rules that regulate the women and children, will be give him a ticket per equivalent to 3 to 155 times the minimum general incomes, calculate in terms of the article 992".

The form how are pass the violate the protections rules of the children work, is using the writing prescription that is done by the Work Inspectors, because is relate of federal or locals periodic visits that are practice in the business.

However, the view is not seek nice, frequently the missing human and economics resources give as result that work inspection came out in a low efficient mechanism, as a result of missing respect or gibe from the patron/boss. This the urgent reason that work inspection has to start to be a reality and effectively prevent the children violation at work.

Any recent cases in your country on violation of children's right at work?

A= We are receiving by the Mexican consul office in Dallas, Texas, complains of maltreat children workers in the meats process industries, locate in Amarillo and Dunas, Texas, where publics workers of this consular representation and the governmental agency, they made a visit to the business installations where the employers manifest maltreat condition, discrimination, unsafe and unhealthy at the work.

As a similar case, that is suffer the third part of the indigenous children whose are in school age, they do not know how to read and write, and they sub-uses in the domestic service as con-national as people from The United States.

By the News communication was detected that the Federal Preventive Police by the Web page, combat/fight more of 2 millions Internet webs, there are use children for infant pornography, it was reporting in Cuernavaca, Morelos by the General Coordinator of Intelligent to Prevention of the Federal Preventive Police, placed inner 8 workshops of the Attorney Defense of the children and family.

3. Specify, if need be, the concrete measures likely to improve the conditions of children at work in your country?

Independently of point out the concrete measures of better labor condition to Mexican children, we want to point out that is a factor of against is the extreme poverty that is affected, because the National Population Counsel dates show that 100 millions of the population of Mexico, proximally 45 millions are infants, whose 23 millions live in extreme poverty conditions. $\frac{3}{4}$ part of the children born inside 25% most poverty families.

Reference dates are give by an investigator of the Education with Children Street Group A.C. EDTNICA, that clear in the Mexico City, one of each 20 children suffer malnutrition or undernourishment, that means, 117,339 children whose 70 thousand of them show serious malnutrition with dead risk.

The tenth part of the pauperism families, receive only the 1.2% of the monetary remittances of the country, resulting in the hand of the infant that are to channel money for the home expenses.

The existence of children activities whose looking for an economic remuneration, there is a complex reality in our country, that is affecting to the general society.

Trying to propose solutions to cut this work, it is almost impossible, because on many times, is more

attractive than go to school and have other types of responsibilities, overall whose make these activities as informal way, without incomes and discipline.

The workers children beside are showing risk and suffer abuse or rapes, they are constantly contact with the alcohol and drugs use, gangs and delinquency.

In these condition we can conclude that children situation is a tragic reflect of the real work conditions but not only them (children) also the majority of the workers, because the infants problems are concern to everyone, is mean, the family, the society, and the State; we could not seek that the family have as root the parents, the majority are workers and if they have better incomes, other lucky could the children have. The truth is that will never FINISH BY DECREE-LAW with the malnutrition, the illiteracy, the exploitation or dropout our children with more laws or rules, if is true, they aren't perfect, They can be perceptible, resulting let's all keeping it, mainly the Constitution authorities. To be a reality the State of right, it must be known, to understand, to love and to respect that is define as Mexican Nation: our Magna Letter, The Constitution. (Nación Mexicana: nuestra Carta Magna, la Constitución).