Introduction

The chosen theme demands an introduction about two kinds of previous considerations: one is conceptual (1) and the other concerns the national reality (2).

(1). Our first task is to establish, with conceptual precision, what is a “child”. For the Convention on the Rights of the Child, adopted by the General Assembly of the United Nation (Nov. 20, 1989), a child is a person less than eighteen years old, except if the law of his country establishes otherwise. And it also says that the member States will establish appropriate legal, social and educational measures to assure that children are protected against economic exploitation and against occurrence any work that may be dangerous or interfere in their education, that may be pernicious to their health or to their physical, mental, spiritual, moral or social development.

In Brazil, the legislation about infantile labor is in three basic documents: the Federal Constitution, the Consolidated Labor Law and the Child and Adolescent Statute (Law nº 8.069, July, 13, 1990).

The first and the last of these documents establish the basic parameters for our theme. The Child and Adolescent Statute defines a child as a person with less than twelve years and an adolescent as a person from twelve to eighteen. Furthermore, the Brazilian Constitution, in the “Social Rights” chapter forbids any work for minors of sixteen, except for the condition of apprentice, from fourteen years on.

Unfortunately, between the law and the reality Brazil shows an immense disparity: there are almost 3 million children and adolescents that do not go to school because, although the Constitutional prohibition of employment of minors under fourteen, it is not unusual that children are put to work very early, disrespecting all legal rules about children work.
It is usually said that children’s work is not an option but a necessity. This is not the place and the moment to bring in statistics but in many cases the child that works is responsible for almost half of the family’s budget and is the substitute for an absent father.

The data of the latest census (2000) are not yet fully available. But with the elements already available, it is known that almost 20% of our Economically Active Population is made up of children between 10 and 15 years.

In addition, since the child that works certainly lacks schooling, he frequently finds no option but to resort to unlawful activities related with gambling, drugs, and sex, in a routine that can easily lead to criminality. Another alternative facing minors in rural areas is to work as non paid members of the family, again without proper schooling. Anyway, their jobs are always the ones that get the worst salaries, in an perpetuation of the misery cycle.

The Brazilian authorities are really worried about the exploitation of minors and are investing money and energy in stopping it. But the country is very big (8.547.395 sq. km – fifth largest country in the world in terms of surface), the average annual per capita income is low (US$ 4,000.00) and the country faces a lot of other dramatic situations that claim for action.

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

The Constitution chapter that draws the main lines on family, children, adolescents and the aged, disposes that

Article 226. “The family, base of the civil society, is granted special protection by the State.”

Article 227. “It is a duty of the family, the civil society and the State to assure the child and the adolescent, with absolute priority, the right to life, health, alimentation, education, leisure, professional skill, culture, dignity, respect, freedom and the familiar and community conviviality, besides the freedom from every form of negligence, discrimination, exploitiation, violence, cruelty and oppression.”

As it is said in the above Introduction, all the protective measures inserted in the Labor Law dispositions only concern minors over fourteen, because this is the minimum age to work. But if a child with less than fourteen comes to a Labor Court, and the procedure reveals that he had worked as an employee, the employer will suffer the same judgment of conviction he would suffer if the employee were an adult.

In an attempt to emphasize these rules, the body of Brazilian legislation establishes prohibition and protection measures.
First, there are prohibitions: minors are not allowed to perform:
- any type of night, dangerous or unhealthy work;
- any work that is prejudicial to his morality.

Then, as protection measures, they have the right to:
- the coverage of Social Security programs and of all the rights granted to adults in the Brazilian labor legislation;
- the guarantee of proper schooling, that assures the child’s education at least in primary level (first eight years).

Of course, these prohibitions and protections were not able to increase the proficiency of children in the lower income segments of the population, or to stimulate parents to send their kids to school. It took some time but, from 2000 on, the Government took two important steps in order to implement a better qualification for children and, at the same time, to generate better skilled workers.

The first of these two steps concerns the rules about apprenticeship. It is an educational program that cares about the professional qualification of infantile manpower. It is now obligatory that all employers, that have more than twenty employees, destine from 5% to 15% of the jobs, that demands special skill, to minors between 14 and 18 years.

The second step is the Infantile Work Eradication Program, that offers scholarships for the families whose children go to school but do not work yet.

If both initiatives will be effective in eradicating the work of children and in elevating the standards of local employees, only he time will tell. But these steps seem auspicious and we can’t but wait a little longer to have an answer to this question.

2. What are the sanctions (applied or applicable) in case of break of children’s rights at work in your country?

We would be very proud if we could say that in our country the family, the civil society and the State are able to abide by this duty. Unfortunately, this is not our reality.

The sanctions that may be applied in the case of violation of any of the children’s rights can reach their parents and their employers. But as the sanctions are limited to very inexpensive fines (something around US$ 80.00 for each violation), it becomes easy to break the law.

The inspection of the working conditions of all employees (which includes working minors) and the imposing of the applicable fines is a task of the Labor and Employment Ministry’s agents. Since their number is largely insufficient, it is not usual that the mentioned fines are applied.
3. Specify, if need be, the concrete measures likely to improve the conditions of children at work in your country.

It would be easy to list some concrete measures to improve the conditions of the working children. But it is first necessary to establish feasible objectives and this is not, as we will see, an easy goal. All the measures and strategies one can think about are expensive and only will be effective over time. Also, the country is poor and children should not be kept waiting for better times. Certainly the single factor, but not the only one, that could improve the future for a vast segment of Brazilian children would be the equal access to better education.

For the time being, the most effective institution in this area is a sort of “Fourth Power” called “Ministério Público”, whose activity is equivalent to the “magistrats du parquet” in France and also resembles the functions of the agents of the Department of Justice or the Prosecuting Attorney in the United States. It is responsible for the defense of the legal order and it is the duty of their agents to investigate and regularize illegal situations.

They have specialized branches and one of them is responsible for legal matters involving labor. They perform
- by orienting and adjusting behavior of employers in respect to the law;
- by investigating accusations about law violations;
- by suing, in a court, the employer or even the family that have not acted in accordance to the law;
- by developing special programs or special campaigns.

The most important and effective of these campaigns is aimed at the eradication of children manpower, clarifying all the persons involved in the labor market about the negative consequences of premature work.

Conclusion

As it was said above, our latest national census is not ready yet, but the data we already have reveal a positive tendency, reducing the percentage of children at work.

A study recently issued by the International Labor Organization shows that, the number of children in the labor force, aged from 5 to 17, decreased by 23%: from 8,42 million in 1992 to 6,49 in 1999. Yet, the study also states that there were 870,000 children working in dangerous or unhealthy occupations.

Of course this is not enough to improve their conditions. But we must hope, looking at our economic and political conditions, that things will improve and our children will have a better tomorrow.