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Child labor facing consolidation in Brazil, Argentina and Uruguay from ratifications of international conventions

A consolidação do enfrentamento ao trabalho infantil no Brasil, Argentina e Uruguai a partir de ratificações de convenções internacionais

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ABSTRACT: The paper main objective is to analyze the converging points that demonstrate the importance of consolidating the process of eradicating child labor in Brazil, Argentina and Uruguay, based on ratifications of international conventions. The technique of bibliographical research was used. The method of approach is the deductive and the monographic procedure was used. It was found that the ratifications of international conventions were milestones in the fight against child labor in Brazil, Argentina and Uruguay. As a result, legal protections against child labor have been structured to guide the execution of public policy.

KEYWORDS: Adolescent. Child. Childhood.

RESUMO: O objetivo geral é analisar os pontos convergentes que demonstram a importância da consolidação do processo de erradicação ao trabalho infantil no Brasil, Argentina e Uruguai, a partir de ratificações de convenções internacionais. Utilizou-se da técnica de pesquisa bibliográfica. O método de abordagem é o dedutivo e o de procedimento o monográfico. Constatou-se que as ratificações das convenções internacionais foram marcos determinantes para o enfrentamento ao trabalho infantil no âmbito do Brasil, Argentina e Uruguai. Em consequência, estruturou-se proteções jurídicas contra o trabalho infantil que orientam a execução de ações de políticas públicas.

PALAVRAS-CHAVE: Adolescente. Criança. Infância.



1 INTRODUCTION

Currently, the exploitation of child labor is a practice that has numerous consequences for human development and the violation of the rights of children and adolescents, a reality in Brazil, Argentina and Uruguay.

Legal protection and the constitutionalization of fundamental rights are significant steps towards the eradication of child labor. Thus, the research is oriented to answer the problem: “What is the relevance of the ratifications of international conventions in the legal protection of the rights of children and adolescents in the process of eradicating child labor in Brazil, Argentina and Uruguay?”

With this research, we sought to analyze the converging points that demonstrate the importance of consolidating the process of eradication of child labor in Brazil, Argentina and Uruguay, through ratifications of international conventions. To fulfill this general objective, the following specific objectives were structured in the subdivisions of the article: to verify the ratification of the United Nations Convention on the Rights of the Child and the establishment of the theoretical basis for full protection; to demonstrate the ratification processes of International Labor Organization Conventions 138 and 182; and to explain the influence of international conventions on the legal protection of the rights of children and adolescents, a fundamental step in structuring the confrontation of child labor.

We used the technique of bibliographical research. Different books, scientific articles, theses, dissertations and legislations were studied. The method of approach was the deductive and the procedure the monographic.

2 CHILD’S RIGHTS CONVENTION OF THE UNITED NATIONS ORGANIZATION AND THEORETICAL BASIS OF INTEGRAL PROTECTION

International human rights protection organizations are compromised on the protection of the rights of children and adolescents in a

worldwide child protection movement, with the universal eradication of child labor as one of their goals.

The United Nations (UN) and the International Labor Organization (ILO) are international organizations formed Member States representatives, which have been carrying relevant activities out to protect human rights of children and to eradicate child labor in a universal way. The generated commitments when the international conventions were approved by the General Assemblies and the Member States ratification influenced the structuring of legal protections for the rights of children and adolescents from the constitutional level, bringing positive consequences to the domestic law of many countries.

The Convention on the Rights of the Child, which was ratified on November 20, 1989 by the General Assembly of the United Nations, is a legal framework in relation to the universal guarantee of the rights of children and adolescents. From then on, the institution of fundamental guarantees for the consolidation of children and adolescents as rights holders in various countries of the world were taken as more significantly (UNITED NATIONS ORGANIZATION, 1989).

This convention was ratified by Brazil by Decree 99,710 of November 21, 1990, by Argentina by Law 23,849 of September 27, 1990 and by Uruguay, by Law 16,137 of September 28, 1990. 1990, an influencing factor in the consolidation of protections to the rights of children and adolescents as fundamental rights in domestic laws. There was an international movement for the universalization of human rights inherent to the generational period of childhood (CUSTÓDIO; MOREIRA, 2015, p. 25).

Even though it was preceded by other international treaties that somehow disciplined the human rights of children and adolescents, such as the Universal Declaration of the Rights of the Child, the Costa Rican San Jose Covenant, the Universal Declaration of Human Rights, the Geneva Declaration. and others, it was the 1989 United Nations Convention on the Rights of the Child that most encouraged Member States to build legal protection for children and adolescents

rights and to develop public policies in the domestic system of Brazil, Argentina. and Uruguay, which began in 1990 (UNITED NATIONS ORGANIZATION, 1989).

It is noteworthy that the United Nations Convention on the Rights of the Child is considered to be the most relevant international treaty on the protection of the human rights of children and adolescents in the context of international diplomatic relations among countries (VERONESE, 2015, p. 127).).

It should also be noted that the Convention on the Rights of the Child is the international agreement on the protection of human rights that has been accepted by the largest number of Member States within the United Nations and it has been ratified by almost total unanimity of representations. Only The United States of America did not sign the agreement (UNITED NATIONS ORGANIZATION, 1989).

The Convention on the Rights of the Child was adopted by the United Nations. It is a specialized mechanism for the international legal protection of people over eighteen years old, in accordance with the definition of children established in Article 1, which provides for such legislation: “For the purposes of this Convention, a child is any human being under the age of eighteen unless, in accordance with the law applicable to the child, adulthood is reached before” (UNITED NATIONS ORGANIZATION, 1989).

It is the United Nations Convention on the Rights of the Child the international law that most influenced the process of consolidating the protection of the rights of children and adolescents in Brazil, Argentina and Uruguay since 1989. Its importance was recognized with the promulgation of national legal protections and institution of public policies with actions to be implemented in order to enforce the legally established, in line with the international treaty, aiming to fulfill the internationally committed (UNITED NATIONS ORGANIZATION, 1989).

From this, it is established that the rights inherent to the condition of humanity must be guaranteed to people who are in this situation of generational diversity, regardless of any condition that

may generate distinction of any nature, as established in article 2: “[. . .] without distinction of any kind, whether race, color, sex, language, belief, political or other opinion, national or social origin, economic position, birth or any other condition ”(UNITED NATIONS ORGANIZATION, 1989) .

Therefore, the human rights of children and adolescents are universal and should be ensured as such. Discrimination in relation to their guarantee is prohibited, and they aim to enable the integral development in childhood. This occurs with the full protection that enables a multidimensional access to rights that aim at physical, mental, intellectual, cultural and social formation (UNITED NATIONS ORGANIZATION, 1989).

Mobilizing the international community is an important strategy to ensure better living conditions for children and adolescents in the world, based on the establishment of legal protection and the commitment of the States-Parties of the United Nations. Thus, the confrontation against the existential difficulties that affect the development of childhood in the face of situations that result from different forms of violence and exploitation can be started (UNITED NATIONS ORGANIZATION, 1989).

From the ratification of the Convention on the Rights of the Child, the States commit themselves to the legal protection of the fundamental rights and guarantees of children and adolescents, as well as the elaboration, consolidation and execution of public policies, aiming at the implementation, based on articulated and intersectoral systems, of these rights (UNITED NATIONS ORGANIZATION, 1989).

It is reaffirmed that the 1989 International Convention on the Rights of the Child provided for the possibility for States Parties to invest in public policy whenever it is necessary to faithfully comply with the fundamental rights set forth in the treaty. It is hoped these policies meet and provide better living conditions, better conditions of development, healthy and harmonious as well as they ensure the full fulfillment of

the rights inherent in the phase of childhood. there is a hope to a strategic reorganization in the field of public policies that truly include children, adolescents and their families (LIMA, 2017, p. 91, translation mine).

The commitment to the eradication of child labor from an international perspective aims to prevent negative consequences for the integral development of children and adolescents, which generates multiple negative consequences and the violation of human rights. It is worth stressing some guarantees of the Convention: dignity, equality, community and family life, physical and mental health, participation in cultural and artistic life, rest and leisure, freedom, security, life, honor and reputation, well-being moral, social and spiritual, education, protection from all forms of physical or mental violence, as well as sexual and economic exploitation (UNITED NATIONS ORGANIZATION, 1989).

The promulgation of the Convention on the Rights of the Child of the United Nations is a key instrument for structuring the theory of integral protection as an interpretative instrument for the rights of children and adolescents. The theory of integral protection is made up of rules and principles and fundamental human rights; it establishes the basis for materializing what is legally protected, using the structuring and implementation of public policies through rights guaranteeing systems. The theory of integral protection is based on the gaze of childhood with attention to its higher interest: the values of citizenship, the interdisciplinarity, the intersectoriality, the democratic popular participation, the emancipation of the subject and the dignity of the human person (CUSTÓDIO, 2008, pp. 30-31).

The structuring and consolidation of a theoretical basis for childhood is a sensitive and fundamental action to enable the modification of the perverse and oppressive context against children and adolescents that occurs in South American. The establishment of a theory provides interpretations, questions and interrogations to the state of things reproduced in social environments. To this end, it will be possible to break the violations of inherent rights of childhood,

already naturalized as “normal” or “correct”, by protecting, guaranteeing and promoting the rights and sensitization of members of society by public policy actions (BUSTELO, 2011, p. 138-144).

The generational phase of childhood is vital for human development, starting at the moment of conception of life and into adulthood. It is characterized by transformations of different perspectives, underling the political, social and legal treatment proper to such generation. The meaning of childhood is the beginning of life, which is characterized by the moment of discovery. It should not be defined by the characterization of negation. The rule cannot be denial or deprivation in relation to childhood, because the “no” around human and fundamental rights are negatively impacting the human and integral development of the person. The development of childhood should follow the diachronic and heteronomous model, striving for innovation, discovery, novelty, playfulness, play and emancipation. The center of decisions and society must be based on prioritization of children and adolescents, in movements against hegemonic.

Child development cannot be repressed by submission to repetitive practices, being restricted to what is transmitted and presenting its emancipation prevented. The stimulation of discovery is an important step for integral childhood development, as “being born” and “living” should not become a simple process of executing a movement that systematically reproduces submission to dominant interests in society – interests of groups formed by elite adults (BUSTELO, 2011, p. 138-158).

The theory of integral protection intended to construct interpretative bases for the rights of children and adolescents, being structured according to the explicit and implicit principles in the legal system (LIMA, 2001, p. 164-166). In addition to the principles inherent in the rights of children and adolescents, the principles relating to fundamental rights should be applied (CUSTÓDIO, 2015, p. 9). It is also a mechanism of realization of rights and protection, being part of the domestic legislation of states such as Brazil, a fundamental principle. This theoretical basis assures the condition of subject of rights to the

universality of children and adolescents, establishing special protection inherent to the peculiar condition of developing person (CUSTÓDIO; VERONESE, 2013).

The guarantee of the condition of subject of rights to children and adolescents generates the possibility of claiming fundamental rights inherent to the condition of citizen. However, there are limiters that prevent such guarantees by the State, especially in view of the weaknesses generated by the globalized capitalist model that leads to extreme competitiveness, individualism, discrimination, social exclusion and situations of poverty or extreme poverty. The economic indicators are what guide the relations in society, with submission to the background of the realization of rights by citizens as a result of the influence of the “imaginary world” from mass culture. In this sense, the importance of public policies that are aimed at the integral development of children and adolescents in a process that seeks the autonomy of the subject is relevant, as they will enable the recognition of human and fundamental rights of the citizen (TOURAINÉ, 2006, p. 118-121; 126-138).

The signatory states of the United Nations Convention on the Rights of the Child are responsible for the deliberation of public policy strategies that must be implemented to ensure that the necessary measures are taken to enable physical and psychological recovery, as well as social inclusion measures for children and adolescents who had their rights violated by exploitative child labor practices in any of their forms, ensuring free public health and social assistance by trained professionals (UNITED NATIONS ORGANIZATION, 1989).

Article 39 instituted health protection and social assistance measures. They aim at physical, psychological and social inclusion; they also provide treatment for children and adolescents exploited in child labor activities, seeking: “[...] encourage the physical and psychological recovery and social reintegration of every child victim of any form of abandonment, exploitation or abuse” (UNITED NATIONS ORGANIZATION, 1989, translation mine).

Article 19 states that Member States have a responsibility to carry out administrative, social, legislative and educational measures, with the focus on protecting against all forms of exploitation, abuse, neglect, abuse, physical or mental violence that victimize children and teenagers. Therefore, States that have ratified the Convention undertake to legislate on a covenant in accordance with the full protection and best interests of children and adolescents, and assume responsibility for instituting public policies that guarantee legally established rights. (UNITED NATIONS ORGANIZATION, 1989).

Article 19. 1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child against all forms of physical or mental violence, abuse or negligent treatment, abuse or exploitation, including sexual abuse, while the child is in the custody of the parent, legal guardian, or other responsible person.

2. Such protective measures should include, as appropriate, effective procedures for the design of social programs capable of providing appropriate assistance to children and their carers, as well as other forms for prevention, identification, notification, transfer to an institution, investigation, treatment and subsequent follow-up of the abovementioned cases of child maltreatment and, as appropriate, to judicial intervention (UNITED NATIONS ORGANIZATION, 1989, translation mine).

The United Nations Organization suggests a list of public policies on access to the rights, justice and protection of children and adolescents that must be provided by its Member States, which will act to tackle child labor through intersectoral actions (UNITED NATIONS ORGANIZATION, 1989).

Thus, the establishment of the theory of integral protection and the United Nations Convention on the Rights of the Child were important achievements in the fight against child labor and the guarantee of human and fundamental rights for children and adolescents, a temporal and legal milestone in relation to the theme. From their adoption, the

States assure the condition of subject of rights to children and adolescents, establishing internal legal protections and intersectoral public policies aimed at the realization of human and fundamental rights.

3 THE RATIFICATION OF CONVENTIONS 138 AND 182 OF THE INTERNATIONAL LABOR ORGANIZATION AND ITS LINKING TO STATES PARTIES

International Labor Organization also ensures the protection of the rights of children and adolescents. Convention 138 of the International Labor Organization established the minimum age for working admission as a commitment binding upon ratifying States, providing for the progressivity of the minimum internal age to the limitation that does not adversely affect integral development during the generational period of employment. childhood (INTERNATIONAL LABOR ORGANIZATION, 1973a). It is one of the international conventions that have as their primary objective the eradication of child labor from a global perspective, preceded by other conventions on the subject that have been gradually replaced by the current one (INTERNATIONAL LABOR ORGANIZATION, 1973a). Recommendation 146 is the one that supplements Convention 138, bringing supplementations on the subject (INTERNATIONAL LABOR ORGANIZATION, 1973b).

Convention 138, which dates from 1973, was ratified by Brazil on June 28, 2001, Argentina on November 11, 1996, and Uruguay on June 2, 1977. These countries under study have made an international commitment to the establishment of a minimum age for working by establishing legal bases for tackling child labor, which is one of the common objectives of the member countries of the International Labor Organization (PROGRAMA INTERNACIONAL PARA LA ERRADICACIÓN DEL TRABAJO INFANTIL – IPEC, [s.d.]).

Through its eighteen articles, Convention 138 aims to consolidate a national policy for the eradication of all forms of child labor,

which will be achieved by progressively raising the minimum age for admission to employment, until integral development of children and adolescents. In any case, it is foreseen that the minimum age for the performance of labor activities may not be lower than for the termination of the school obligation, or at least fifteen years. The Member States in this Convention are also responsible for developing public policies aimed at addressing intersectoral child labor (INTERNATIONAL LABOR ORGANIZATION, 1973a).

The impossibility of working under the age of eighteen is foreseen whenever there is a risk to the safety, health or morality of children and adolescents; and in relation to activities related to the professionalization of adolescents, as long as allied to educational background, which is the case of learning in Brazil, the initial working age, as a rule in the Convention, is fourteen years old (INTERNATIONAL LABOR ORGANIZATION, 1973a).

Convention 182 of the International Labor Organization deals with the prohibition of the worst forms of child labor and immediate action to eliminate it. It is complemented by Recommendation 190. Convention 182 is a specialized legal provision that commits the Member States to Parties to the eradication of the worst forms of child labor, establishing priority and immediate actions to be strategically implemented through public policies to eliminate them as urgently as possible. To this end, intersectoral, articulated and networked measures should be adopted to ensure that the internationally ratified objectives are met (INTERNATIONAL LABOR ORGANIZATION, 1999a).

In addition, the importance of free basic education was highlighted, as well as the establishment of public policies aimed at the rehabilitation and social inclusion of exploited children and adolescents in any of the worst forms of child labor (INTERNATIONAL LABOR ORGANIZATION, 1999a).

The International Program for the Eradication of Child Labor noted the ratification of Convention 182 of the International Labor Organization, which dates from 1999, by Argentina, on February 5,

2001, by Brazil, on February 2, 2000, and by Uruguay, August 3, 2001. These attitudes are highlighted as determining steps towards the eradication of the worst forms of child labor, a common regional and global goal (PROGRAMA INTERNACIONAL PARA LA ERRADICACIÓN DEL TRABAJO INFANTIL – IPEC, [n.d.]).

For Convention 182 it has been determined that a child is any person under the age of eighteen. Article 3 fulfilled the task of describing what is considered to be the worst form of work within the International Labor Organization:

Article 3 For the purposes of this Convention, the term “worst forms of child labor” includes:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and servanthood, and forced or compulsory labor, including the forced or compulsory recruitment of children for use in armed conflicts;
- (b) the use, recruitment or offering of children for prostitution, the production of pornography or pornographic acts;
- (c) the use, recruitment or offering of children to engage in illicit activities, in particular the production and trafficking of narcotics, as defined in the relevant international treaties; and,
- (d) work which, by its nature or by the conditions under which it is performed, is likely to harm the health, safety or morals of children (INTERNATIONAL LABOR ORGANIZATION, 1999a, translation mine).

Article 4 of Convention 182 requires that States Parties undertake to define, on the basis of their domestic legislation and in consultation with representative organizations of employees and employers, a list expressing which activities are classified as the worst forms of child labor in its territory of coverage, providing for periodic review (INTERNATIONAL LABOR ORGANIZATION, 1999a).

Recommendation 190 of the International Labor Organization presents objectives to guide internal public policies to address the worst forms of child labor:

- a) to identify and report the worst forms of child labor;
- b) to prevent the occupation of children in or out of the worst forms of child labor, protect them from reprisals and ensure their rehabilitation and social inclusion through measures that meet their educational, physical and psychological needs;
- c) to give special attention to:
 - i - younger children;
 - ii - the girls;
 - iii - the problem of hidden work, in which girls are particularly at risk; and,
 - iv - other groups of children who are especially vulnerable or have particular needs;
- d) to identify the communities in which children are especially at risk, come into direct contact and work with them, and
- e) to inform, sensitize and mobilize public opinion and interested groups, including children and their families (INTERNATIONAL LABOR ORGANIZATION, 1999b).

Therefore, it is emphasized that Brazil, Argentina and Uruguay adopted International Labor Organization Conventions 138 and 182 as part of their domestic legislations following their ratification:

Table 01 – Conventions 138 and 182 of International Labor Organization Convention ratification framework

State-Parties	Convention 138	Convention 182
Argentina	November 11 th , 1996	February 5 th , 2001
Brazil	June 28 th , 2001	February 2 nd , 2000
Uruguay	June 2 nd , 1977	August 3 rd , 2001

Source: International Program for the Eradication of Child Labor - IPEC, [n.d]

Therefore, the conventions and recommendations agreed on International Labor Organization are intended to address child labor in

all its forms, as well as to guarantee the human rights of children and adolescents. They had a distinct role in consolidating advanced legal protection, which provided for the establishment of national laws in accordance with the internationally agreed commitment, and in the development of public policies, which are in line with international public policy guidelines within Brazil, Argentina and Uruguay.

4 THE INFLUENCE OF INTERNATIONAL CONVENTIONS ON FACING CHILD LABOR IN BRAZIL, ARGENTINA AND URUGUAY

Children and Adolescents law is characterized by interdisciplinarity, having been built from international and national legislation. The domestic law of each country has, in general, its constitutional basis and its infraconstitutional norms, which provides for the recognition of the right of children and adolescents as an autonomous branch of law (VERONESE, 2017, p. 01).

Article 227 of the Constitution of the Federative Republic of Brazil guarantees fundamental rights of children and adolescents in the country's legal system. As a rule, the theoretical and principled basis of integral protection, the principle of triple shared responsibility and the principle of absolute priority are expressly provided. There is also an articulation with the principle of the dignity of the human person and the universalization of access to rights, which are constitutional foundations (BRAZIL, 1988).

Article 227. It is a duty of the family, society and the State to guarantee the right to life, health, food, education, leisure, professionalization, culture, dignity, respect, freedom and family and community life to the child, the adolescent and the young, with absolute priority besides protecting them from all forms of neglect, discrimination, exploitation, violence, cruelty and oppression (BRAZIL, 1988).

Article 7, item XXXIII, of the Constitution of the Federative Republic of Brazil, also established the minimum working age in Brazil at sixteen, and fourteen years-old, the age to a child in a learning condition. Eighteen years-old is the age that permits night work, dangerous, unhealthy, painful work. or one of the modalities on the list of the so-called worst forms of child labor:

Article 7 The rights of urban and rural workers, as well as others aimed at improving their social status, are:

XXXIII - Prohibition of night work, dangerous or unhealthy work for children under eighteen and any work for children under sixteen, except as an apprentice from the age of fourteen (BRAZIL, 1988, translation mine).

To rule the constitutionally and internationally established, Brazil adopted the Statute of the Child and Adolescent, Law 8.069, of July 13, 1990, which ensured from the caput of its article 1, the full protection of children and adolescents: law provides for the integral protection of children and adolescents ”(BRAZIL, 1990, translation mine). As in Article 4, it established the principle of absolute priority in the realization of rights and the triple shared responsibility:

Article 4: It is a family, community, society as well as a public power duty to ensure, with absolute priority, the realization of the rights related to life, health, food, education, sport, leisure, professionalization, culture. dignity, respect, freedom and family and community life (BRAZIL, 1990, translation mine).

The purpose of such provisions is to guarantee to children and adolescents the right to life, health, leisure, education, professionalization, dignity, freedom, respect and protection against any form of discrimination, violence, oppression and cruelty. Rights that are violated through the exploitation of child labor activities, from the triple shared responsibility and the theory of integral protection (CUSTÓDIO; MOREIRA, 2015, p. 229-230).

It should be noted that the Child and Adolescent Statute was influenced by the Convention on the Rights of the Child, encompassing its concepts, principles, rules and guarantees: “[...], the Child and Adolescent Statute was created in compliance with the rules and modern principles issued by the various international pacts on the defense of children and adolescents” (SOUZA, 2008, p. 21).

Protection against the exploitation of structured child labor in Brazil was significantly influenced by the conventions of the United Nations and the International Labor Organization, which is very similar to what happened in the other countries of this study.

[...] International law has played a fundamental role in this development, because through the ratification of the United Nations Convention on the Rights of the Child and International Labor Organization Conventions 138 and 182, an effective process to children and adolescents protection has begun. Such agencies influenced national legislation, having their concepts, principles and prerogatives inserted in the Federal Constitution, the Child and Adolescent Statute and other laws, in order to increase child and adolescent protection. This timeframe influenced the government, since, from these ratifications, there was a greater commitment through the establishment of intersectoral public policies to combat child labor with an effective decrease in the number of exploited children and adolescents, as evidenced by the official indexes of the Brazilian State (CUSTÓDIO; MOREIRA, 2018, p. 195, translation mine).

The Argentine National Constitution provides that human rights treaties are of a higher hierarchy than their laws. Its 22 paragraph, article 75, a list of international provisions having such a hierarchy are included, including the 1989 Convention on the Rights of the Child. Constitutional legislation also governed in item 23 of the same article, which is the National Congress that has the competence to legislate and promote actions to guarantee human rights of children and adolescents (ARGENTINA, 1953).

In compliance with constitutional and international provisions, Argentina has legislated on protection against child labor. Law 26.061 of 2006, which deals with the Comprehensive Protection of the Rights of Children and Adolescents, aims a full protection of the rights of children and adolescents:

Art. 1 Objective - This law aims at the integral protection of the rights of children and adolescents that are in the territory of the Argentine Republic, to guarantee the full, effective and permanent exercise and enjoyment of those recognized in the national legal system and in international treaties to which the Nation is a party. The rights recognized here are guaranteed by their maximum enforceability and based on the principle of the best interests of the child. The omission in the observance of the duties that hereby correspond to the governmental organs of the State empowers every citizen to bring administrative and judicial actions in order to restore the exercise and enjoyment of such rights, through expedited and effective measures (ARGENTINA, 2005, translation mine).

The law protected the fundamental rights of children and adolescents, expressing the necessity of ensuring the best interests of them, with the full guarantee of the right to dignity, life, privacy, health, identity, freedom, access to protection measures, education, sport, opinion, the environment, equality, integral development in a dignified manner. The condition of humanity is also a guarantee. Other rights are also assured with absolute priority, some of them are undermined by exploitation of child labor. The establishment of public policies for the realization of rights was another ensured aspect. Shared responsibilities are explicitly established between state, society and family for the protection of the rights of children and adolescents (ARGENTINA, 2005).

Law 26,390 of 2008, which provides for the prohibition of child labor and protection of adolescent labor, was responsible for raising the minimum working age to sixteen years-old in Argentina, in

accordance with article 2, and any type of survival or work strategy, with or without profit, below the willing age (ARGENTINA, 2008).

Regarding Uruguay, the Constitution of the Republic states that work under the age of eighteen has special regulation. It is limited, according to its article 54 that: “[...] Women and children working under eighteen years-old will be especially regulated and limited” (URUGUAY, 1967, translation mine).

Uruguay promulgated on December 7, 2004, the “Code of Youth and Adolescence - Law No. 17,823”, which intends to guarantee the full protection of children and adolescents. It also established that the protection of the rights of children and adolescents is a family, state and community and society duty. It should be implemented through public policy actions to guarantee rights. It should be stated that in Uruguay the minimum age to start working is fifteen years (URUGUAY, 2004).

Article 9 provided for the guarantee of rights to the universality of children and adolescents, without any distinction:

Art. 9 Every child and adolescent has an intrinsic right to life, dignity, freedom, identity, integrity, image, health, education, recreation, rest, culture, participation, association, to the benefits of social security and to be treated equally whatever their sex, religion, ethnicity or social status (URUGUAY, 2004, translation mine).

The theory of integral protection was similarly established in Uruguay, Brazil and Argentina, as it aims to ensure the multiplicity of rights inherent to human development integrally to the universality of children and adolescents, recognized as subjects of rights. Also, within the three countries, a minimum age for working in accordance with international agreements was established, with concern from the constitutional perspective.

It can be conceptualized as “child labor”, labor activities practiced below the minimum age established within each State, both economic activities and survival strategies, whether paid or unpaid.

Thus, in Brazil, the minimum authorized ages are fourteen years for apprentice work, in compliance with Law 10,097 of December 15, 2000, and sixteen years for adolescent work, according to the established rule. Uruguay set it as a minimum age to start working at fifteen. In Argentina the minimum age for work is sixteen years. The three countries have set at 18 the minimum age for hazardous, night, unhealthy, drudgery or work in any of the so-called “worst forms of child labor”. As a result, any work that fails to observe and abide by the rules set in relation to age parameters constitutes activities of exploitation of children and adolescents in child labor. And “adolescent work”, in turn, is the permitted work activity for adolescents from the minimum age established in the country until the age of eighteen, provided that it respects the rules for such (CUSTÓDIO; MOREIRA, 2015, p. 69).

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In Constitutional States, governed by the Federal Constitution, all developed relations must respect the guarantee of the dignity of the

human person and fundamental rights. It has to consider the condition of subject of rights and citizenship as the center of relations, limiting themselves to actions of the state itself, of people and of the market (LORENZETTI, 1998, p. 221-245).

The legal systems of Brazil, Argentina and Uruguay are typically based on the principle of human dignity and the irradiation of fundamental precepts to the legal system as a whole. The basis of the law is on humanitarian issues, restricting individualities and limiting the actions of the market and the state in favor of the human person, which is the basis of the model of democratic rule of law (SARMENTO, 2010, p. 33-93). It can be said that in such State models the principles of human dignity and the best interests of children and adolescents are significant tools for making political and legislative decisions on child and adolescent rights (RUIZ, 2004, p. 358).

It is evident that Brazil, Argentina and Uruguay have legal systems with the constitutionalization of fundamental rights inherent to children. They underlie all similar legal protection against child labor in accordance with international commitments made jointly by the United Nations and United Nations International Labor Organization. Such consolidated bases are fundamental to advance in the search for overcoming the problem, which occurs from the exercise of public policies with the purpose of achieving the legally established in the countries under study. Finally, it is asserted that a key step in the eradication of child labor in the States under review has been achieved, as it has ensured consistent legal protection agreed with international commitments.

5 CONCLUSION

Therefore, the Brazilian, Uruguayan, and Argentine legal systems have brought joint responsibilities to the State, the family, the community, and society with regard to the protection and guarantee

of the rights of children and adolescents, whereby It denominates as triple shared responsibility, having as one of its bases the search for the eradication of child labor in view of its consequent violation of human and fundamental rights.

International and national, constitutional and infraconstitutional legal order are committed to the establishment of fundamental rights of children and adolescents from the constitutionalization of human rights with the common purpose of facing child labor in Brazil, Argentina. and Uruguay, based on the theory of integral protection. In this sense, States comply with international commitments from a constitutional perspective and with democratic participation in order to give a greater place to the citizen, state and family.

Finally, it should be noted that there are many common legal norms regarding coping with child labor under Brazilian, Argentine and Uruguay an laws, and there are many similar points in the path towards the eradication of child labor. Thus, it was found that the ratifications of the United Nations Convention on the Rights of the Child, Conventions 138 and 182 of the International Labor Organization were milestones in the fight against child labor in Brazil, Argentina and Uruguay. As a result, legal protections against child labor have been structured to guide the execution of public policy actions.

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