

The Fight against the Least Visible Form of Human Trafficking: Trafficking for Child Labour Exploitation

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Abstract

Child trafficking for the purpose of labour exploitation is a difficult phenomenon to detect. It is also not readily definable considering that this specific form of trafficking is closely linked with the phenomenon of forced child labour, and even with the broader occurrence of child labour. This poses significant challenges when trying to regulate the circumstances concerning child work and the criminalisation of trafficking for labour exploitation. This article offers an overview of the available data and aims to clarify all the situations involved, defining *child work*, *child labour*, *forced child labour*, and *child trafficking for the purposes of labour exploitation*. Furthermore, it discusses the possible loopholes and critical issues that could hinder global approaches to resolving these issues.

Key words

Forced child labour; child labour; child work; child trafficking for labour exploitation

Resumen

La trata infantil con fines de explotación laboral es un fenómeno difícil de detectar, y tampoco es sencillo definirlo si se tiene en cuenta que esta forma específica de trata está estrechamente relacionada con el fenómeno del trabajo forzado infantil e, incluso, con el fenómeno más general de trabajo infantil. Todo ello supone un desafío a la hora de regular las circunstancias que definen el trabajo realizado por niños y la criminalización de la trata para la explotación laboral. Este artículo ofrece un repaso de los datos disponibles en esta materia y procura aclarar las situaciones que se pueden plantear, así como definir *trabajo realizado por niños*, *trabajo infantil*, *trabajo infantil forzado* y *trata infantil con fines de explotación laboral*. Por último, profundiza en las posibles deficiencias y en los aspectos críticos que podrían obstaculizar un acercamiento global a esta problemática.

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Palabras clave

Trabajo infantil forzado; trabajo realizado por niños; trabajo infantil; trata infantil con fines de explotación laboral

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1. Introduction

If human trafficking for labour exploitation is already a phenomenon whose victims are difficult to detect and identify, this lack of visibility is even more apparent when these victims are children. Nevertheless, according to the last UN *Global report on trafficking in persons* (United Nations Office for Drugs and Crime – hereinafter UNODC - 2014), labour exploitation and child trafficking have been detected with increasing frequency in recent years (UNODC 2014, pp. 29 and 34). Moreover, some overlap can exist between this specific form of trafficking and the phenomenon of forced child labour, as well as with the broader occurrence of child labour. There are several significant factors that pose difficulties for regulating the circumstances surrounding child work, and the criminalization of trafficking for labour exploitation. These include a lack of reliable global data, and differing interpretations of child trafficking for labour exploitation. Adequate and effective preventive measures also need to be established in order to eliminate human trafficking.

This article offers an overview of the available data related to these phenomena, along with clarification of the challenges involved in defining *child work*, *child labour*, *forced child labour*, and *child trafficking for labour exploitation*. It also discusses the possible information gaps and critical issues that could hinder global approaches to resolving these issues.

2. The available data: child trafficking for labour exploitation and forced child labour

If trafficking for labour exploitation purposes has been underreported for adults, it is even more difficult to understand the incidence of trafficking when the victims are children. This is largely a consequence of the difficulty of detecting victims of human trafficking which is further complicated by the limited availability of reliable sources of related information.

According to the *Global report on trafficking in persons* of 2014 (UNODC 2014), forced labour represents 40% of all forms of human trafficking. Moreover, we can see that child trafficking accounts for 33% of the total number of victims detected during the 2010-2012 period. These percentages have increased significantly in recent years. The UN *Global report on trafficking in persons* of 2009 (UNODC 2009) cited sexual exploitation as the most commonly identified form of human trafficking (79%), followed by forced labour (18%). In its 2012 edition, trafficking for labour exploitation already represented 36% of all trafficking cases (UNODC 2012), and by 2014 it had reached 40% (UNODC 2014).

With respect to child trafficking, the proportion of children among the total number of known victims has been steadily increasing since 2004. For example, between 2004 and 2014 the percentage of trafficked children increased from 13% to 33% (UNODC 2014, p. 11). The report cites the biggest increases in child trafficking within Europe and Central Asia (p. 11). Unfortunately, the *Report* does not offer any breakdown concerning the forms of exploitation that mainly affect children. Some data exist regarding other forms of exploitation other than sexual exploitation, forced labour and organ removal. For example, children are victimized for the purposes of baby selling, or for illegal adoption. Furthermore, there are specific forms of human trafficking where victims are typically children. These include trafficking children for armed combat (*child soldiers*), for begging, for committing petty crime, and for the production of pornographic material. In addition, the *Report* also mentions several examples of usual child trafficking that constitute a form of labour exploitation; for example, the use of children as street vendors or for domestic servitude (UNODC 2014, p. 43).

The International Labour Organization's (hereinafter, ILO) *Global estimate of forced labour* from 2012 (ILO 2012b) estimates the number of people involved in forced

labour to be 20.9 million. Adults account for 74% (15.4 million) of those trafficked for the purposes of forced labour while children under the age of 18 account for 26% of all forced labour victims (5.5 million children).

Since these sources of information differ in their approach to analyzing the issue of child trafficking for labour exploitation, it is difficult to obtain an accurate perspective. The 2012 ILO *Global estimate of forced labour* (ILO 2012b) places a specific figure of 5.5 million children as victims of forced labour globally, whereas the UN *Global report on trafficking in persons* of 2014 (UNODC 2014) is focused on showing trafficking flows and patterns, offering essentially qualitative percentages (e.g., of forms of trafficking, or of gender and nationality of victims). The latter report acknowledges the challenges in trying to establish any reliable measure of the true extent of child victims of human trafficking. The data collection methods used to generate these two reports do not coincide. The UN distinguishes human trafficking for sexual exploitation, for labour exploitation, for organ removal and for other forms of exploitation, while the ILO examines only forced labour. It is important to note that the ILO considers sexual exploitation to be a kind of forced labour.

Besides its reports on forced labour, the ILO has also published some reports specifically on child labour. The most recent report was published in 2015, and it states that 168 million children are used in child labour, referring to the year 2012 (International Programme on the Elimination of Child Labour of the International Labour Organization – hereinafter, IPEC - 2015, xiii). This is the same number that appears in the ILO document *Global child labour trends 2008 to 2012* (Diallo *et al.* 2013), as well as in its document *Marking progress against child labour. Global estimates and trends 2000-2012* (IPEC 2013) This number represents about one-tenth of the total child population, and indicates a decline in child labour between 2008-2015, as the total number of child labourers in 2008 was 215 million (ILO 2010, p. 7). It must be noted that the 2006 ILO *Global report on child labour* also recognized that the number of child labourers had been globally decreasing in previous years, going from 245 million in 2000 (ILO 2002) to 218 in 2004.

It must be highlighted that in 2013 the first statistics at the European Union level were published on human trafficking, offering specific numbers (Eurostat 2013). However, the report itself recognizes that the data were collected from different authorities working in this field, and more meta-data and better identification procedures could improve the real estimation of this phenomenon. The revised edition published in 2015 for the same period (2010-2012) states that 30,146 victims were identified by Member States, 19 per cent of which were children under the age of 18. Data are also separated into different types of labour exploitation, and there is only a total breakdown by gender, not by age. In this respect, it is only specified that over 1,000 child victims were trafficked for sexual exploitation, or more accurately that children represent 14 per cent (2,912) of identified victims of trafficking for sexual exploitation (20,800, i.e. 69 per cent) [Eurostat 2013, p. 30].

What has been commonly addressed and agreed upon by the researchers is the kind of sectors most susceptible to harbour forced labour. According to the estimations of the UN (UNODC 2008, pp. 3-4), these sectors are agriculture, food processing, construction, textile and garment enterprises, retail, manufacturing, logging, mining, restaurants, domestic work, and entertainment (Coster van Voorhout 2007, pp. 48-49). In reality, the most likely areas in which forced labour can be found are those industries that rely on cheap or seasonal labour, or involve difficult and dangerous jobs. Industries with complex chains of subcontracting are most able to conceal this kind of labour. After observing all these data, some conclusions can be drawn.

First, there is a recurring problem that has been highlighted by those who study human trafficking: the difficulty to secure exact numbers regarding the scale of this problem, fundamentally the number of victims or presumed victims of this global

phenomenon (Aghazarm *et al.* 2008, Nelken 2010, pp. 484 and following, Goodey 2012). The UN and ILO documents themselves repeatedly emphasize the difficulty in offering reliable data, particularly for the worst forms of child labour, due to the hidden nature of this phenomenon and the scarce information given by different countries (IPEC 2002, pp. 18-19). Not even official data can be totally reliable, as Nelken highlights on page 484 and following. His review reveals that the number of convictions is very low, due to the difficulty in discovering this crime, and statistics provided to researchers could include cases that do not fall under the definition of human trafficking. Furthermore, as Gallagher (2010) and Wade (2012) point out, prosecution for related offenses rather than for trafficking may be easier and appealing in the short-term.

It is interesting to note that sexual work or prostitution has not been mentioned among the areas identified by the UN as being susceptible to develop forced labour. The UN Trafficking Protocol distinguishes *trafficking for sexual exploitation* from *forced labour trafficking*. By this distinction, when the victim is coerced to be a sex worker, this situation is considered as trafficking for the purpose of sexual exploitation, but could it not actually be considered as forced labour? (see, for example, Kane 2013, pp. 124-125). There are documents that consider this work to be forced labour when it takes place under coercion. The ILO report entitled *Global estimate of forced labour* (ILO 2012b) refers to this idea with respect to the global estimate of 20.9 million people victims of forced labour. Furthermore, the ILO itself has clarified that coercive sexual exploitation falls under the definition of *forced labour* (ILO 2005 and 2012b, IPEC 2007). It is interesting to note that the UN Protocol considers forced labour as one form of human trafficking among other forms of exploitation; whereas, for the ILO, human trafficking is one of the possible means to accomplish forced labour.

Nevertheless, some interesting clues on the situation of child trafficking and forced child labour can be found by examining the data offered by these documents. Whereas child labour is said to have been declining since the early 2000's (ILO 2006, xi; IPEC 2015, pp. 43-44), it has not been the case where forced child labour is being used under extreme cases of poor living and working conditions as defined in Article 3 of ILO Convention No. 182 (ILO 1999). Although the ILO has insistently declared that the priority in this field is to eliminate these unconditional worst forms of child labour, and it has established as a "visionary target" (ILO 2010, p. xiii) their total abolition by 2016, at the same time it has highlighted their hidden and illicit nature and the consequent lack of reliable data in most countries (IPEC 2013). According to UN data (UNODC 2014), child trafficking has been increasing in recent years, and the same has happened with human trafficking for forced labour. Therefore, it is interesting to examine the areas where this growth has taken place: forced labour has become the main form of exploitation in East Asia and the Pacific (UNODC 2014);¹ regarding victims of human trafficking, children outnumber adults in Africa and the Middle East (UNODC 2014).

It is difficult to identify commonalities among the UN Reports and those written by other institutions, but fortunately certain specific trends are agreed upon. East Asia and the Pacific are known to be the regions where forced labour is the predominant form of exploitation. In fact, the ILO Global estimates on child labour have stated that the overwhelming majority of child victims of forced labour are located in the Asia-Pacific region (IPEC 2002, 26).² Once again, it is important to note that comparing data will not paint an accurate picture, due to the fact that all these documents use different definitions: the UN considers forced labour as a form of exploitation separate from sexual exploitation; the ILO Global estimates on forced

¹ In the *Global Report* of 2012, the percentages were similar in East Asia – Pacific and Africa – Middle East (UNODC 2012, p. 2).

² These data go back to 2002, because since then there have not been specific estimates on the worst forms of child labour other than on "hazardous work".

labour include sex work in its concept of “labour”; and the ILO Global estimates identify “forced labour” as one of the worst forms of child labour, separately mentioning the use of a child for prostitution and for the production of pornography.

Another relevant datum is the sector where most child laborers can be found. According to the latest ILO estimates, around 59 per cent (98 million) of child labour is concentrated in agriculture (Diallo *et al.* 2013, p. 14 and IPEC 2013, p. 23). Child labour in agriculture consists primarily of work on small family farms, although it also extends to activities such as livestock production, fishing and aquaculture (IPEC 2013). According to the ILO 2013 estimates, the numbers of child in services and industry are also relevant: 54 million (32 per cent) are found in the services sector and 12 million (7 per cent) in industry. The services sector includes domestic work as well as informal work in hotels and restaurants, car repair shops, etc., which involves a total of 11.5 million children (Diallo *et al.* 2013 and IPEC 2013, 23).

3. Making definitions clear: ‘child work’, ‘child labour’, ‘forced child labour’ and ‘child trafficking for labour exploitation’

In order to effectively address child trafficking for labour exploitation requires a definition of other situations related to it, each with a different degree of seriousness. Beginning with *child work*, a term that includes both legal and illicit work, the next step will be defining *child labour* and identifying its *worst forms*, two of which are said to be child trafficking and forced labour.

Effectively addressing child trafficking for labour exploitation necessitates having clear definitions for *child work* and *child labour*. The latter encompasses *child trafficking* and *forced labour*, which are among its *worst forms*.

3.1. Giving definitions: ‘child work’, ‘child labour’ and ‘forced child labour’

The ILO refers to *child work* as “children at work in an economic activity” (IPEC 2002, 29-30). It is a broad concept that encompasses most productive activities performed by children. The ILO adopts the term “economic activity” as defined by the System of National Accounts (SNA). This means that economic activity covers all market production and certain types of non-market production, including production of goods for personal use. As the ILO explains,

whether paid or unpaid, the activity or occupation could be in the formal or informal sector and in urban or rural areas. Children working as maids or domestic workers in someone else’s household are considered to be economically active. However, children engaged in domestic chores within their own households are not considered to be economically active. (IPEC 2002, pp. 29-30)

The ILO has always maintained its decision to continue to measure child labour on the basis of the SNA production boundary, and not on the general production boundary. This decision was made primarily to maintain comparability with the earlier ILO Global estimates on child labour. It was also made because only a few countries provide the necessary data on unpaid household services carried out by children at home (Diallo *et al.* 2013).

Accordingly, as it is explained in the ILO document *Child labour statistics. 18th International Conference of Labour Statisticians* (ILO 2008, p. 11),

the SNA production boundary is more restricted than the general production boundary, in that it excludes, among others, unpaid household services. Such production activities outside the SNA production boundary are defined as ‘non-economic production’, and comprise items such as cleaning, preparing meals and care of other household members.

Production falling within the SNA production boundary is defined as *economic production*. *Economic production* is a broad concept covering all market production

and certain types of non-market production (i.e., the production of goods for personal use). It includes forms of work in both the formal and the informal sector, as well as forms of work inside and outside family settings.

It should be noted that not every economically active child is working in violation of the ILO Minimum Age Convention, 1973 (No. 138) and the ILO Worst Forms of Child Labour Convention, 1999 (No. 182). According to the International Programme on the Elimination of Child Labour, created in 1992 by the ILO,

the term 'child labour' is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that: is mentally, physically, socially or morally dangerous and harmful to children; and interferes with their schooling by: depriving them of the opportunity to attend school, obliging them to leave school prematurely, or requiring them to attempt to combine school attendance with excessively long and heavy work.

In other ILO documents, the term "child labour" has been defined as a term that excludes all children working legally in accordance with ILO Conventions No. 138 and 182 (ILO 1973, 1999; see also Diallo *et al.* 2013, vii).

The problem that arises here, as the ILO itself recognizes, is to define what is meant by *light work* and *hazardous work*. ILO Convention No. 138 (ILO 1973) stipulates in article 7 that "light work" should "not be harmful to a child's health and development and not prejudice attendance at school or participation in vocational training". Regarding "hazardous work", ILO Conventions No. 138 and 182 (ILO 1973, 1999) define it only very generally as work "likely to jeopardize or harm the health, safety, or morals of children". In expounding this definition, the ILO has said that it is

any activity or occupation which, by its nature or type has, or leads to, adverse effects on the child's safety, health (physical or mental), and moral development. Hazards could also derive from excessive workload, physical conditions of work, and/or work intensity in terms of the duration or hours of work even where the activity or occupation is known to be non-hazardous or 'safe'. (IPEC 2002, p. 33)

Lastly, among the sectors where child labour can be found, one could cite agriculture and livestock farming, mining, fishing, manufacturing, the building sector, domestic services, restaurants and shops, and street work (see Arias 1998, Rodillo 2004, ILO 2006, Stearman 2011).

Within "child labour", the ILO has selected the worst forms of child labour in its aforementioned Convention No. 182 (ILO 1999). According to its article,

the worst forms of child labour comprise: (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; and, (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. (ILO 1999)

The three first categories (a, b, c) are the so-called "unconditional worst forms of child labour". Within these worst forms, the focus for investigation should be on where the ILO mentions "trafficking of children" and "forced or compulsory labour".

When defining "forced labour", the ILO refers to the general definition contained in the ILO Forced Labour Convention (No. 29, ILO 1930): "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily" (definition reaffirmed by the Protocol of

2014 to the Forced Labour Convention; ILO 2014).³ The ILO also specifies that forced child labour can be distinguished from other forms of child labour through the presence of one or more of the following elements: a restriction of the freedom to move; a degree of control over the child going beyond the normal exertion of lawful authority; physical or mental violence; and absence of informed consent (IPEC 2002, p. 35).

The definition of “forced labour” contained in the ILO 1930 Convention should be explained in depth. Information within the ILO document: *Hard to see, harder to count. Survey guidelines to estimate forced labour of adults and children* (ILO 2012a) is applicable and useful for achieving this goal. According to this document, forced child labour has four dimensions (the same as for adults, but with some distinctive characteristics). The three first are equivalent to involuntariness, and the last one, coercion, is divided into six sub-categories, that is to say, six recognized ways to coerce people:

1. Forced and/or the deceptive recruitment of children, which covers both forced and deceptive recruitment. *Forced* means that, during the recruitment process, constraints are applied to oblige a child to work for a particular employer. *Deceptive* means that the child is recruited through false promises made to him/her or his/her parents.
2. Work and life of children under duress, that covers adverse working or living situations imposed on a child by the use of force, penalty or threat of penalty. *Work under duress* may entail an excessive volume of work or tasks that are beyond what can reasonably be expected of a child given his/her physical and mental capacity. *Life under duress* relates to situations where restrictions on freedom or excessive dependency are imposed on a child by his/her employer.
3. The impossibility for children to leave their employer. The difficulty to leave an employer is characteristic of forced labour in situations where leaving would entail a penalty or punishment which, in the case of children, might be something seemingly less significant than for an adult; for example, an inference that his/her parents would be extremely unhappy or disappointed if s/he were to leave, and that the family would suffer as a result.
4. Regarding coercion of children, the categories of coercion of adults also apply: threats and violence, restriction of workers’ freedom of movement, debt bondage, withholding of wages, retention of passport and abuse of vulnerability. However, given the young age and heightened vulnerability of children, the details for each category require some modification.

To summarize, the key concept is that the person is not free to leave the job without losing his/her rights, privileges, or wages (Palmiotto 2015, 159).

A final question regarding forced child labour is that, given that a child cannot legally consent and is under the paternal authority, the *threat of a penalty* can fall on him/her or on his/her parents. Moreover, a child must be considered as a victim of forced labour when s/he is working with him/her parents, who are themselves victims of forced labour. These two considerations are recognized, for example, in the aforementioned ILO document *Hard to see, harder to count* (ILO 2012b). Indeed, it is possible to find two kinds of situations: on the one hand, many children are victims of human trafficking because their own parents are also involved in this situation; and on the other hand, the state of forced child labourers comes as a result of an adverse family environment.

³ The UN *Global Report* (UNODC 2014) does not define the concept of *forced labour*, only clarifying that it is a broad category that can include: manufacturing, cleaning, construction, textile production, catering, or domestic servitude.

3.2. Some controversial points: elements of the definition, historical and socioeconomic contexts, preventive and ban measures

Now that *child work*, *child labour*, and *forced child labour* have been defined, several controversial issues still need to be addressed.

3.2.1. Definition of 'child work': the production boundary and the exclusion of non-paid domestic services

To begin with, the focus could be already put on the definition of *child work*, where the System of National Accounts (SNA) production boundary is taken as the basis of this concept. The question is undoubtedly relevant, because being each successive definition a subcategory of the previous one, the meaning of SNA⁴ would have to be inherent to the concepts of *child labour* and *all the worst forms of child labour*. Notwithstanding the reasons given by the ILO to maintain this SNA production boundary, some controversial questions could be raised here.

The accepted definition of *child work* is based upon the SNA production boundary. Examining the validity of this definition is highly relevant, since successive definitions inherent to the concepts of *child labour*, and *all its worst forms*, are dependent upon the basic definition. Despite the reasons given by the ILO to maintain this SNA production boundary, some controversial questions could be raised.

There is an important issue relating to the definition of production boundary itself. As defined, the SNA production boundary includes non-market economic production, but excludes non-economic production like unpaid household services, which are part of the definition of the general production boundary. The question arises as to whether it is possible to differentiate between these concepts (*SNA production boundary vs. general production boundary*). For instance, the ILO document *Child labour statistics* (ILO 2008, pp. 11-12) identifies common children activities such as the collection of water and wood for fuel as "non-market economic production". It also gives some examples of household activities: cooking, washing up, indoor cleaning and upkeep of abode, care of textiles, installation, servicing and repair of personal and household goods, outdoor cleaning and upkeep of surroundings, minor home improvements, maintenance and repair, care of family members and procurement of household goods and services.

This also leads to the exclusion of hazardous unpaid household activities performed by children from the methodology used in ILO global estimates (Diallo *et al.* 2013), when hazardous work is actually a form of child labour. Indeed, some studies have revealed that a great deal of child work takes place in the sphere of non-remunerated jobs within households. Children can be put to work within their own homes, or within a relative's home. The most common forms of work are domestic chores and, especially in poorer countries, agricultural tasks (Nieuwenhuys 1996). In fact, many ILO documents indicate that agricultural and household activities carried out by children have been neglected in Global estimates, and admit that child domestic labour is often masked by kinship arrangements. Some may claim that children are learning useful skills within this supposedly protective environment. This kind of labour has been experiencing social tolerance similar to what is deemed as acceptable within agricultural work. In the end, the ILO recognizes the convenience of advocating for the inclusion of child domestic labour as a form of child labour, and potentially one of its worst forms (ILO 2006; also Fabregat and Virrueta 2000). It is noteworthy that the distribution of children in child labour by employment status shows that child labourers work primarily without being paid by their own families: unpaid family workers account for more than two-thirds of child labourers (68%), followed by paid employment (23 per

⁴ "The SNA is the internationally agreed standard set of recommendations on how to compile measures of economic activity in accordance with strict accounting conventions based on economic principles". United Nations *et al.* 2009, p. 1.

cent) and self-employment (8 per cent) (IPEC 2013, p. 23). This shows that a large number of child labourers perform work within a domestic setting, ranging from household chores to agricultural work. Moreover, besides agricultural tasks and pure household chores, the exclusion of the household realm from the concept of *child work* and *child labour* would overlook some situations where exploitation could also occur. It is significant to note that the exclusion of domestic work from the concept of *child labour* also has a gender dimension, since most of these tasks are undertaken by girls (see, for example, Gibbons *et al.* 2005).

Finally, the exclusion of domestic work can have a distorting effect on the definition of *child trafficking* and *forced labour* as two of the unconditional worst forms of child labour. If child labour and its worst forms fall within the broader concept of *child work*, and if this term does not include domestic work, does this really mean that child trafficking and forced labour cannot have the purpose of exploiting the child for domestic services? In fact, these tasks are not excluded from the general definition neither of human trafficking nor of forced labour. Indeed, the definitions given by the UN and by the ILO, respectively, can include work in private residences or households (Palmiotto 2015).

3.2.2. Definition of 'child labour': the controversial establishment of a standard minimum age for working and the effects of ban and preventive measures

A second issue that has turned out to be problematic is the concept of child labour itself. As it has been seen, this describes all work carried out by children that is harmful to their dignity and their physical and mental health, and that interferes with their schooling. This has led to the establishment of a minimum age to begin employment, provided by the ILO and also stipulated in each national legislation. So, in practice, the elements which could turn child work into child labour include the child's age, the nature of or conditions of the work, or being any of the identified worst forms of labour (IPEC and International Organisation of Employers 2015). The establishment of a compulsory minimum employment age is difficult to establish at an international level, taking into account the diversity, at least, of wealth and culture in every country (Bonet 2010).

There have been calls to defend "children's right to work", or at least to guarantee their labour rights instead of imposing an absolute ban (Cordero 2015, pp. 97-98). In other words, what is called into question is not the prohibition of exploitative work conditions, but the mere prohibition of working under a fixed age. Indeed, it can be useful to turn to the history of child work, or more broadly to the history of work throughout different ages. In the past, work carried out by children had different fields and meaning: it essentially consisted of housework, agricultural tasks and family or small workshops. These activities were seen as contributing to household economics and as a way of socializing, often making it difficult to differentiate between work time and leisure time. It was believed that it was in everyday work where useful skills for the child's life could be learned (Viñao 2005, Wintersberger 2006, Stearman 2011, Ruiz 2013, Sarasúa 2013). In short, with the Industrial Age it could be said that work was moved apart from predominantly household or family settings, to external and more distant places, with the factory being the great exponent of this fundamental change (Wintersberger 2006, Stearman 2011, Ruiz 2013, Cordero 2015).

Some of the current strategies designed to put an end to child labour have reached an adverse effect, worsening the conditions of the child labourers, as the ILO itself has recognized. For example, this was the well-known case of the garment industry in Bangladesh. In 1992 a bill was presented in the U.S. Senate to ban imports made as a result of child labour; though this legislation was never passed, the Bangladesh Garment Exporters and Manufacturers Association urged its members to fire under-age workers in the factories, in accordance with their national Factory Act that set a minimum age for employment of 14 years. It was reported that up to

50,000 children were dismissed and had to look for worse or more hazardous jobs, especially in the informal sector, including prostitution. The ILO and UNICEF recognized that these abrupt dismissals of child labourers without offering any alternatives were not the best solution for children. To correct the consequences of this initiative, a Memorandum of Understanding was signed by the ILO, UNICEF and the Bangladesh Garment Exporters and Manufacturers Association. The Memorandum served to reallocate dismissed children to schools, and included different kinds of partial monetary compensation for lost income (UNICEF and ILO 2004; see also Fyfe 2009, Stearman 2011, Cordero 2015).

One major challenge that can be identified as a result of different measures against child labour is the probable creation of worse *side effects for children*. Attempts to reduce the occurrence of child labour have probably resulted in worse side effects for children. It could be argued that a phenomenon as profound and multi-layered as child labour cannot be approached and solved in a reductionist way, especially considering all factors that determine the emergence of child labour. Another measure that has been presented as beneficial to reduce child labour is the so-called *conditional cash transfers*, which are social assistance programs that provide a certain amount of cash to poor households on a regular basis, on condition that the beneficiaries fulfill some obligations aimed at human development, such as sending their children to school or participating in health programs (Tabatabai 2006). It has been claimed that the main strength of these cash transfers lies in the fact that they tend to address the roots of child labour: chronic poverty, vulnerability to economic shocks, absence of schooling alternatives, labour market conditions, and cultural factors or lack of participation in health programs. Nevertheless, some controversial points can be found in the implementation of these conditional cash transfers. The monitoring and evaluation of these programs in some countries (e.g., Brazil and Mexico), have verified that they have increased childrens' time in school and reduced labour force participation and the incidence of hazardous work performed by children. Conversely, these programs seem to have had less success in limiting the probability of long hours of work (Tabatabai 2006).

Surprisingly, one specific experience in conditional cash transfers (in Brazil) had an important feature in which an after-school programme was implemented. The aim was to keep children at school twice as long as usual during the day, thereby limiting the time available for work. It must be noted that the ILO itself questions the real impact of conditionality on reducing child labour, underlining that there is some initial evidence suggesting that transfers can have an impact on child labour even in the absence of schooling conditions, indicating that more research is needed in this field (ILO 2013).

Finally, some other drawbacks can be identified in these programs, such as the necessity of financial resources to implement them, the previous availability of social services, especially in the field of health and education, and the adequate design of *exit options*, in order to prevent people from becoming dependent on them (Tabatabai 2006, ILO 2013). The ILO has lately recognized that conditional cash transfers have a different impact on child labour depending on the country where they are implemented, and that they alone cannot be the only response to child labour. Moreover, some of the drawbacks in the implementation of conditional cash transfers should be discussed: according to the ILO, some evaluation studies suggest that transfers may be less effective if they are invested in productive activities pertaining to land, livestock or microenterprises, as these investments create opportunities for children's involvement in family work (ILO 2013). Nevertheless, it should not be stated in principle that all family work is detrimental to children, without considering the specific conditions in which it is carried out.

In addition, some of these preventive measures could cause other side effects beyond the issue of child labour itself. For instance, it has been argued that the demand for skilled jobs in a society, with the resulting demand for advanced

education, could be a way of postponing children's entry to work and investing in their education. It was cited as an example the case of the access to high-yield seeds by farmers in a set of villages in India in the late 1960s. An example was cited of a group of villages in India in the late 1960s, with respect to access to high-yield seeds by farmers. It was said that the farmers with higher levels of education were arguably more equipped to go through the process of experimentation and learning and should therefore receive the new seeds. Ultimately, the introduction of these seeds was seen as a factor for increasing school enrollment and a return to education, and consequently for reducing the number of working children (IPEC 2015). The report itself recognized that the increase in school enrollment and the ability to take advantage of this new technology was much higher among children from households with land than for children from households without land. Therefore, landowners benefited from having better access to production supports such as tractors, fertilizers and pesticides. Simultaneously, the increased demand for skilled labour caused a decrease of labour requirements on the farms. This could serve as evidence that this change benefited large landowners. The demand for skilled jobs can result in a decrease of the global labour market demand, which could be detrimental in terms of future access to employment. Finally, this specific strategy could be questionable in terms of natural environment preservation and also of people's health.

It would be prudent to identify the possible side effects of this kind of decision, and to consider the problem of child labour globally. As such, if one takes into account that the goal of some child labourers is to provide money to help alleviate poverty within their own homes, a global response would be to tackle the whole problem, which could happen through an improvement of labour conditions for all workers (Cordero 2015). Indeed, it would be useful to pay attention to all the relevant factors in child labour to obtain a comprehensive view of this phenomenon and then to suggest adequate solutions. Poverty has been identified as the main cause of child labour, in relation to the size of the family (Fabregat and Virrueta 2000, International Labour Office and Inter-Parliamentary Union 2002), but wisely it has been pointed out that it is not the only factor, especially with regard to the worst forms of child labour (International Labour Office and Inter-Parliamentary Union 2002, Rodillo 2004, ILO 2006). Employing children may have other relevant motives and advantages for employers, arising from the fact that children are less troublesome, more flexible and cheaper than adult workers (International Labour Office and Inter-Parliamentary Union 2002, Rodillo 2004). The availability and quality of school may be a concern for employers (Fabregat and Virrueta 2000, International Labour Office and Inter-Parliamentary Union 2002, Rodillo 2004), along with other vulnerabilities associated with poverty. These could include adult job loss and its resulting stresses, and agriculture-related crises such as drought or crop failure. Correlated to these difficulties is a lack of social security services essential to mitigate these vulnerabilities (ILO 2013). Two other factors that could possibly influence employers are the social traditions and popular perceptions about the role of children as workers (International Labour Office and Inter-Parliamentary Union 2002, ILO 2013).

These are the main factors appointed in relation to the development of child labour, but focusing on child trafficking for labour exploitation as one of its worst forms, the causes that have been identified with respect to human trafficking can also apply here. Just some of the risk factors of child trafficking coincide with some of the ones determinant of child labour. In addition, poverty has been identified as a key factor, but explained in relation with other factors, such as loss of adult employment or other economic hardship in the family, natural (e.g., droughts, floods) or man-made (e.g., armed conflicts) disasters or other family crisis such as divorce, illness or death which could cause the impoverishment of family members; it has also been added the role of social or sexual discrimination as a risk factor for child trafficking (IPEC 2008, pp. 20 and following). The reference to poverty as the

main underlying cause of human trafficking should be explained within the context of socioeconomic inequality existing among the world's nations. The roots of these inequalities can be traced back to the era of colonization, as well as to recent economic globalization. Over time, geographic and social colonization resulted in poverty, inequality and a lack of social supports. The development of capitalism and globalization formed clear inequalities and left behind those who could not access economic resources. On this basis, abuse of individuals can be defined as wealthy people or countries that, in order to achieve their business goals, or their objective to maximize profits, employ human beings as their workforce (Sanghera 2005, Bales 2000 cited in Villacampa 2011, Kaye and Winterdyk 2012, García Vázquez 2012, Aboso 2013).

In addition to the specific study of direct causes of child labour and child trafficking, a more comprehensive strategy would take into account specific economic policies which lead to more poverty and a higher risk of child trafficking. A case in point is the elimination of protected food prices, which prejudices the poorest countries and forces them to resort to a cheap and informal workforce (Nieuwenhuys 2007, Cordero 2015).

To summarize, the absolute prohibition of working under a worldwide accepted age is difficult to establish because it cannot accommodate the social and economic particularities of each country (Nieuwenhuys 1996), and because it can result in a partial solution to a more global problematic situation. A more viable approach would account for the socioeconomic determinants of child labour, in which the regulation of a child's labour rights could potentially be a temporary solution that could guarantee both fair wages and security in workplaces. With this in mind, the existence of fully organized child labour unions is remarkable. They plead for a child's right to work and therefore for the legal recognition of fair conditions to carry it out (Cordero 2015). As an example, Bolivia became the first country to legalize child labour in 2014, when new legislation was introduced stating that children above the age of 10 are permitted to work with some stipulations (e.g., attending school). This decision led to a number of anti-child labour groups to condemn the decision, claiming that Bolivia's new legislation goes against international law, specifically the UN convention designating 14 as the minimum work age. Part of the Bolivian government's rationale is that child labour already exists in the country and that it would be too difficult to eradicate. Therefore, the Bolivian government has declared its intention to protect the rights and guarantee the labour security of children. The legislation also takes into account that child labour is something ingrained in Bolivian culture, with a large percentage of the adolescent population having to work, and that it is seen as a way to alleviate the severe poverty which affects many Bolivian families. There is even a special trade union (Unatsbo), composed of child and adolescent workers that has always campaigned for child workers' right to work, demanding the abolition of the minimum working age (Shahriari 2013).

3.2.3. The relationship between forced child labour and child trafficking for labour exploitation

A third issue focuses on the consideration of child trafficking and forced child labour as the "unconditional worst forms of child labour". Even the separate mention of "trafficking" and "forced labour" can be seen as problematic.

Regarding the first concern, it has even been argued that these are not actual forms of child labour (Mendizábal 2011, Cordero 2015). As previously explained, the term *child labour* set aside non-paid domestic work, where a notable number of cases of child trafficking and forced labour can be found, showing the incoherence of considering these last two phenomena as a subcategory of child labour.

The separate mention of "trafficking" and "forced labour" is not specific to child trafficking and forced child labour. Instead, the definition of *trafficking* itself and the

purpose of exploitation must be questioned. Indeed, the punishment for those who engage in human trafficking intends to cover a process where a person is recruited and transported with the purpose of some form of exploitation. Thus, it is possible to differentiate between *human trafficking for labour exploitation* and *forced labour*: the first one encompasses the process through which a person is recruited and transported for the purpose of subjecting him/her to coerced labour or services; the second one refers to the coerced work itself, in other words, to the situation of exploitation that consists of working against one's will, under the control of another person. Taking this into account, it is questionable whether the international emphasis on fighting human trafficking is the most comprehensive way to end human exploitation, which is (or should be) in reality the genuine and final objective of this sort of initiative. It is true that trafficking does not require the execution of the exploitative situation, but trafficking being a process, it is necessary to ascertain all of its stages: recruitment, transportation, and purpose of exploitation (see Sanghera 2005, Olsen 2008, Defensor del Pueblo 2012). All these factors make it difficult to gather all the evidence and to prosecute the crime, leading to some collateral consequences. For example, this explains the very low number of prosecutions in national tribunals for the crime of human trafficking, and it has made countries strengthen their border controls, in order to better combat human trafficking or perhaps to tighten up their immigration policy. Another result of this interpretation of trafficking is that due to the lack of global evidence of this process, cases of trafficking have been prosecuted as different types of crimes (Defensor del Pueblo 2012).

All these considerations can lead us to think that more, or at least the same emphasis should be put on the prosecution of the crimes that are tantamount to *the exploitation itself*, instead of focusing mainly on the fight against the trafficking process (Rijken 2013, Rodríguez 2015, Sánchez 2015). In fact, the current trend both in literature and in State practices is to accept that the concept of trafficking not only encompasses the process of recruiting the victim in order to exploit him/her, but also includes the situation of exploitation itself (Gallagher 2010, Chuang 2014). So, asserting that the criminalization of human trafficking can serve as a means of punishing those who engage in activities that lead to the situation of exploitation should be welcomed. However, the real target should not be forgotten. The genuine reason to prosecute this crime is to avoid future exploitation, so emphasis should also be put on the prosecution of those who perpetuate the exploitative situation itself. A comprehensive fight against human trafficking for labour exploitation would give priority to the prosecution of forced labour itself, obviously without disregarding the aspect of trafficking.

4. Conclusion

This article began with an overview of the available data on the phenomena related to child trafficking for labour exploitation, and the clarification of all the situations involved, defining *child work*, *child labour*, *forced child labour* and *child trafficking for labour exploitation*.

After examining the current state of affairs on these issues, a number of questions were addressed in an effort to understand all these phenomena and to discuss the most adequate measures to put an end to child trafficking for labour exploitation, with particular emphasis placed on the factors that render it possible.

The article focuses on the need to pay close attention to agriculture and household services, especially the latter because they are not covered by the concept of *child work*. This also leads to their exclusion from the field of the unconditional forms or child labour, that is to say, child trafficking and forced child labour. This is incompatible with the general definitions of these last two terms, which do not share the same criteria employed by the ILO to clarify the meaning of *child labour*.

Experience tells us that the strategies used to combat child labour should be carefully designed to minimize its possible side effects. Moreover, the influence that certain macroeconomic decisions could have on the socioeconomic development of poor countries cannot be disregarded, since they could result in the maintenance of child labour or favour the development of child trafficking.

Finally, it should be remembered that although the criminalization of human trafficking is a way of punishing those who engage in activities that lead to exploitation, the same emphasis should also be directed at prosecuting those who engage in the act of exploitation itself. In order to do so, a comprehensive campaign against child trafficking for labour exploitation would give priority to the prosecution of those who perpetuate forced labour itself, obviously without overlooking the element of trafficking. An indisputable correct step in this direction is the current trend to include the situation of exploitation as a core element of what constitutes human trafficking. However, based on the discussion in this paper, there is still much work to be done before a clear definition can be reached and which meets all the necessary conditions discussed in this paper.

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