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Information on Argentina

Compliance with ILO Convention No.29 on Forced Labour (ratified in 1950)

Trafficking in people for labour and sexual exploitation

In the last ten years, women and girls from countries like Paraguay, the Dominican Republic and Brazil have been trafficked to Argentina for sexual exploitation while Argentine women have been trafficked internally and across borders, principally to Brazil and Spain. Bolivian men, along with their families, have also been trafficked for labour exploitation in garment factories in Argentina. Trafficked people have been identified in many provinces of Argentina including, Buenos Aires, Neuquén, La Rioja, Entre Rios, Córdoba, Rio Negro and Tucumán.

Trafficking of Paraguayan women and girls to Argentina

While the economic crash led to a dramatic reduction in the trafficking of Dominican women to Argentina, the trafficking of other nationalities continued and even increased in this period. A recent report published by the International Organization for Migration documented 473 women who were trafficked between 2000 and 2004. Of these, 259, or 52 per cent of the total, were trafficked into prostitution in Argentina. The majority were taken to Gran Buenos Aires and also La Plata, Córdoba, and Santa Fe. Río Negro and Catamarca were less common destinations.¹

Although there is a great diversity in the profiles of those trafficked from Paraguay, generally the Paraguayan women who ended up in Argentina were from rural areas, lived in situations of extreme poverty and had little education. There was also a very high percentage of minors. Of the 259 Paraguayans trafficked to Argentina, 90 were under 18. This means that 62 per cent of all trafficked minors recorded in the study were taken to Argentina.

These figures of course do not represent the totality of trafficked women from Paraguay. For example, in June 2005, the Paraguayan Vice Consul noted that in the city of Posadas alone, province of Misiones, they had received more than 100 reports from parents of daughters who had disappeared and were believed to have been trafficked.²

¹ Unless otherwise stated information in this section comes from the research by Grupo Luna Nueva, *La Trata de Personas en el Paraguay: Diagnóstico exploratorio sobre el tráfico y/o trata de personas con fines de explotación sexual*, Buenos Aires, OIM, June 2005.

² Virgínia Messi, [Denuncian que en el país trafican a mujeres y nenas paraguayas](#), *Clarín*, 12 June 2005, page 60.

Trafficking of Argentine women and girls

Argentine women and girls are also trafficked for sexual exploitation, both internally and across borders. Many of these women and girls are from Misiones, but they also come from Tucumán, La Rioja, Chaco and Buenos Aires. Spain and Brazil are the principle destinations for Argentine women who are trafficked across borders.

While coercion and deception are also commonly used to traffic Argentine women, there are also an unusually high number of kidnappings by gangs for internal and cross border trafficking. Such cases involve overt violence and the physical confinement of the women in order to stop them escaping and is exemplified by the Marita Verón case.

Marita Verón was kidnapped on 3 April 2002 in San Miguel de Tucumán, when she was 23 years old. Marita Verón's mother, Susana Trimarco, has uncovered evidence, including testimonies from others who have escaped from brothels (e.g. Fátima Mansilla, aged 16, and Andrea Romero, 15), which clearly indicates that Marita Verón was forced into prostitution by a trafficking gang.

In her search for her daughter, Susana Trimarco has found evidence of trafficking networks operating in the provinces of La Rioja, Tucumán, Buenos Aires, Córdoba and Santa Cruz and helped to rescue many women from traffickers, including some 17 women from Argentina who were forced into prostitution in Bilbao, Burgos and Vigo in Spain. However, more than four years after her abduction, Marita Verón has still not been found.

The Verón case is not an isolated example. Nearly 70 cases have been filed in Tucumán in the last five years regarding women and girls who have disappeared and are presumed trafficked.³ In May 2005, the Office for the Integrated Assistance for Victims of Crime (Oficina de Asistencia Integral a la Víctima del Delito - OFAVI) noted they were assisting two young women from Tucumán who were kidnapped using chloroform and forced into prostitution in La Rioja.⁴ The women and girls affected by this type of trafficking come from a wide range of backgrounds.

Trafficking for labour exploitation

In 2001, the Special Rapporteur on the sale of children, child prostitution and child pornography noted that 56 Bolivian children and young people between nine and 20 years old were being held under armed guard, given one meal a day and forced to work in four clandestine sweatshops in the La Matanza area. They had been brought into Argentina by truck illegally after being sedated.⁵ This proved to be part of a much larger problem of trafficking for forced labour.

In October 2005, 17 Bolivians were released from a textile factory in Buenos Aires which was owned by Juan Carlos Salazar Nina. The Ombudsman's Office for the city of Buenos Aires (Defensoría del Pueblo CABA), the IOM and a local community

³ *Caso Marita Veron*, Alianza Por Tus Derechos, www.alianzaportusderechos.org, 13 December 2005.

⁴ Rolando Barbano and Virgínia Messi, *La desaparición de mujeres*, *Clarín*, 29 May 2005, page 54.

⁵ E/CN.4/2001/78, 25 January 2001, par.21. Quoted in OMCT, *The Rights of the Child in Argentina*, OMCT, Geneva, 2002.

organisation known as La Alameda, helped the migrant workers file charges against Salazar for trafficking and forced labour.

Salazar, also Bolivian, had promised to pay the workers per garment produced, but once in the sweatshops they were forced to work up to 17 hours a day and received the equivalent of \$6.50 as an “advance”.

Workers testified that Salazar threatened them, took away their documents and restricted their freedom of movement (including locking them into the factory) in order to keep them working against their will. Furthermore, food was only provided to employees, meaning adults had to share their food with their children. Some workers also reported that they were prevented from taking their children to school or to the doctor because it would “interfere with production”.

On 9 November 2005, Judge Oyarbide dismissed the case against Salazar and his wife, Remedios Flores, on the basis that there was insufficient proof to show the workers had been in servitude and that he did not have jurisdiction in relation to violations of labour laws. This happened despite the fact that eight former employees and neighbours gave evidence against Salazar. These witnesses also confirmed that police came regularly to the factory to take a percentage of the profits.

According to the Cooperativa de Trabajo 20 de Diciembre, a community organisation which helped the Bolivians, four of the 17 migrant workers were threatened personally or by telephone before Salazar was set free by the judge. The Cooperativa also alleged that police intimidated witnesses and offered them bribes to try and get them to change their testimonies. The Ombudsman’s Office estimated that thousands of people could be working in similar conditions in sweatshops in and around Buenos Aires.⁶

On 30 March 2006, a fire broke out in a textile factory where around 60 Bolivian were found to have been exploited. Six people were killed including four children. OFAVI is providing assistance to victims who are suing the owner for forced labour. A programme of inspections was ordered in Buenos Aires which resulted in the closure of 30 out of 54 workshops inspected in a single week because of the appalling working conditions. According to the city’s Minister for Human and Social Rights, Gabriela Cerutti, there are around 1,600 clandestine sweatshops in the city and some 200 of these employ slave labour.⁷

Although Bolivians are primarily affected, Paraguayans, Argentines and Peruvians⁸ are also reported to be at risk of this type of exploitation, particularly in factories producing footwear.⁹ Similar concerns have been raised about working conditions for Korean and Chinese migrants in factories and agriculture.

⁶ Quoted in Como presos en talleres de baja costura, *Página/12*, 26 October 2005.

⁷ Marcela Valente, *Bolivian community divided over sweatshops*, Inter Press News Service, 6 April 2006.

⁸ Research by the IOM based on a census from the Consulate of Peru found that 52% of Peruvian migrants are women, with most having a degree or secondary schooling. Yet 74% of these women were working as domestics. The rest were normally taking care of the elderly/ill, working in the informal economy or working in the textile industry.

⁹ Information from: Como presos en talleres de baja costura, *Página/12*, 26 October 2005; Marcela Valente, Argentina: Slave Labour Alive and Well in Textile Sweatshops, *Inter Press*, 2 December

The Migration Law (Ley de Migraciones No. 25.871), which came into force in Argentina on 21 January 2004, aims to discourage the facilitation of irregular migration and the employment of migrants without the proper documentation. Moreover, by extending the chance to claim back money that their employers owe them (Article 67) and the possibility of regularising their immigration status (Article 23 m) the law also encourages migrants who have been trafficked or subjected to exploitation to come forward and cooperate with the authorities.

Furthermore, the Government's National Programme of Documentation of Immigrants allows migrants from Mercosur and associated countries to regularise their immigration status on presentation of their ID documents and a certificate from the police confirming that they have no criminal record. This programme intends to legalise the status of some 700,000 people and should help many escape from forced labour and other exploitative conditions of work.

The legal framework to combat trafficking and implementation

The Argentine Government ratified the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children in 2002, but it is not in compliance with this standard as it has no specific legislation which defines and punishes trafficking for sexual and labour exploitation.

While trafficking is not an offence in Argentina, the Penal Code does allow traffickers to be prosecuted for related crimes. For example, laws prohibit promoting or facilitating the entry or exit of a minor for the purposes of prostitution (Article 127 bis) and promoting or facilitating prostitution of those over 18 through deceit, violence, threats, abuse of authority, or any other means of coercion (Article 127 ter). Article 140 establishes penalties for those who reduce another person to servitude.

These offences do not cover all aspects of trafficking as set out in the UN Protocol and they do not allow prosecutors to pursue all elements of the trafficking chain (i.e. those that recruit and transport the victims).

The lack of a specific trafficking offence in the Penal Code means that, even where trafficking cases are identified and successfully prosecuted, traffickers are still likely to escape with relatively light sentences. For example, Vicente Serio was charged with promoting and facilitating prostitution and convicted in 2002. He was sentenced to just four and half years in prison despite the fact that he forced dozens of trafficked women into prostitution in a network of brothels that he controlled in San Miguel and is likely to serve less than three years as most prisoners are eligible for early release.

In 2005, two separate judicial processes were started in a case involving two trafficked Bolivian girls, one for the corruption of a minor and the other for reducing a person to a servile status. This case underlines the need for a specific offence of trafficking. Such an offence must be a federal law. This would solve the current problem where judges can only act within the jurisdiction of their province and the

2005; Comunicado de Cooperativa de Trabajo 20 de diciembre, 11 November 2005; and International Organization for Migration, press releases, 25 October and 14 November 2005.

conflicts over whether trafficking crimes come under national or provincial jurisdiction, both of which interfere with a thorough investigation of trafficking cases.

On 14 July 2005, a judge presiding over a case in which four trafficked women escaped from sexual exploitation in Necochea decided to apply the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The Protocol is incorporated into Argentine legislation under laws 25.632 and 25.763. In this ruling the judge ordered the Secretary for Human Rights of the Province of Buenos Aires to provide the victims with accommodation and ensure their physical, psychological and moral well-being.

This is an important precedent that shows that a judge can apply international standards to protect victims of trafficking. However, it underlines two important failures in the current Argentine system. First, support can only be ordered by a judge after a judicial process has been initiated and many trafficked people will require support before they would even consider taking legal action. Second, even if a judge orders support to be made available, there is generally an absence of specialised assistance for trafficked people in Argentina. For this reason, institutions like OFAVI and IOM have had to house trafficked people in inappropriate temporary accommodation, like hotels, because there is no appropriate housing available.

Initiatives by the government, inter-governmental agencies and NGOs have increased public awareness in recent years, but understanding of trafficking issues still varies considerably within and between provinces. Worse still, corruption within the police force and the direct involvement of individual officers in criminal activity linked to prostitution and trafficking seriously impedes efforts to address the issue. The following examples illustrate the problem:

- The disappearances or deaths of 26 women, many of whom were involved in prostitution, in Mar de Plata, province of Buenos Aires, was initially thought to be the work of a serial killer. However, a judge later determined that 13 of the deaths and disappearances were connected to an organisation of police officers involved in prostitution and drug trafficking.¹⁰
- In January 2005, three women managed to escape from traffickers, but did not go to the local police as many of the police officers were clients of the brothel where they were held. However, police at the station they did go to (the Cuartel Quinto en Moreno) refused to file the complaint and called the owner to let him know what was happening. The third police station they went to only filed the complaint under duress.¹¹
- In the same month, two minors were rescued from a brothel in the port of Quequén. The brothel was run by a municipal employee and a police officer from the province of Buenos Aires.¹²
- In the Vicente Serio case referred to above, Serio alleged that he had to pay 18,000 Argentine pesos to politicians and police so that he could continue running the brothels.¹³

¹⁰ *Clarín*, 6 October 2001. Quoted in ONG CEDAW Contrainforme, *op. cit.*, page 11.

¹¹ Denuncian que las esclavizaron para trabajar como prostitutas, *Clarín*, 18 January 2005, page 37.

¹² Virginia Messi y Rolando Barbano, Tráfico de mujeres: Un negocio de mafias familiares, *Clarín*, 3 July 2005.

¹³ Pedido de condena para 4 acusados de prostituir a mujeres, 15 December 2002, *Clarín*, page 56.

- Witnesses in the Bolivian trafficking case of October 2005 (cited above) alleged that police officers received pay-offs from Salazar, intimidated witnesses and offered them bribes to change their testimonies during the trial.

Obviously, where the police are involved in trafficking, or are perceived to be involved by members of the public, it will make it much more difficult to encourage trafficked people to come forward and co-operate with the authorities.

The judicial system also lacks credibility as it is generally slow and inefficient. Between 2002 and November 2005, OFAVI provided direct assistance to victims in more than 100 trafficking cases, all of which have gone before judges, but only one had been resolved by the end of 2005.

Conclusions

Despite some positive initiatives to combat trafficking, it remains the case that some three years after Argentina ratified the UN Protocol it still has no law which specifically defines and penalises trafficking in persons and there is no specialised assistance available to trafficked persons. There are also a worrying number of cases in which the police are implicated in trafficking. These factors are pivotal in explaining the rise in internal and cross-border trafficking in recent years and the lack of effective prosecutions for trafficking.

The Director General of OFAVI has drafted a comprehensive Bill for the Repression of the Trafficking in Persons and the Assistance of its Victims. The Bill is consistent with the UN Protocol's definition of trafficking, penalises all forms of trafficking in people and provides for the establishment of a National Programme for the Prevention and Assistance of Victims of Trafficking in Persons. This National Programme will be responsible for preventing trafficking, ensuring the respect of the rights of trafficked people, providing access for victims to free medical, psychological, social and legal assistance, and promoting awareness of trafficking. It will also promote protocols for joint working between institutions to implement action to prevent trafficking and assist victims, including their social reintegration.

This Bill provides a comprehensive framework for tackling the problem, but there is concern over the delay in its approval. It was passed by the Senate on 16 November 2005, but it was still under consideration by the Chamber of Deputies in the National Congress at the end of May 2006. Without the law, a national programme of assistance and an action plan that clearly defines the roles for each institution involved, it will be difficult to make real progress against trafficking.

The Government therefore needs to approve the Bill for the Repression of Trafficking in Persons and Assistance to its Victims as a matter of priority. In implementing this law it must ensure that all allegations of complicity or direct involvement in trafficking by public officials are rigorously investigated and, when proved, appropriately punished.

Prosecutions will be facilitated by greater awareness of the problem amongst the general public and by training public officials, including the police, immigration and judiciary. The Government should provide details on the number of prosecutions

brought for trafficking for both sexual and labour exploitation, along with convictions secured and sentences passed.

Appropriate assistance is not currently available to people who have been trafficked and the Government needs to set up the National Programme for the Prevention and Assistance of Victims of the Trafficking in Persons and Sexual Exploitation and provide it with the appropriate budget to ensure it can deliver the required services.

Finally, the new regulations outlining how the 2004 Migration Act need to be passed. These will assist in preventing the trafficking and exploitation of migrant workers.