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Information on Paraguay

Compliance with ILO Convention No.182 on the Worst Forms of Child Labour (ratified in 1967)

The Worst Forms of Child Labour

Trafficking of children in Paraguay

Research carried out between 1 September 2004 and 15 January 2005 by the NGO Grupo Luna Nueva for the IOM documented 118 trafficking cases, involving 495 women and girls. The number of recorded cases increased from 8 cases, 42 women affected (12 minors) in 2002, to 29 cases, 109 women affected (37 minors) in 2003, and reached 61 cases, 236 women affected (56 minors) in 2004.¹

The total number of people affected will be much higher due to under-recording. For example, trafficking of boys for sexual exploitation is not generally acknowledged in society and therefore remains undocumented. Child domestic workers, who are often transported to different areas of the country where they are subjected to labour and sometimes sexual exploitation, are also not recorded in this research. Finally, cases reported by key informants, but not independently verified by the researchers were not included (e.g. the 15 children from Pedro Juan Caballero who were reported to have been trafficked to Sao Paulo in Brazil in 2003).

The survey records 145 girls as trafficked, roughly one in three of the total number where age was recorded. Of these minors, 62 per cent (90 girls) went to Argentina and 28 per cent (40 girls) were trafficked internally.² These girls are generally from rural areas, live in extreme poverty and have little formal education or employment opportunities

Although all children under 18 years old need parental approval, signed by a judicial authority, along with identity documents in order to leave the country, this is not applied in practice and it is relatively easy to traffic minors across the frontiers. It is easiest to take minors from Ciudad del Este or Pedro Juan Caballero across to Foz de Iguazú in Brazil because there is practically no control at this border. However, children are also taken across the frontiers into Argentina, particularly from Encarnación to Posadas and Puerto Falcón to Clorinda.

¹ 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, IOM, June 2005, page 51.

² Grupo Luna Nueva, *op. cit.*, page 54.

The Argentine border guards report that they regularly detain minors at the border who do not have any documents or have other people's documents, but have passed the Paraguayan control undetected. At the Puerto Falcón-Clorinda frontier, up to November 2004, Argentine border guards refused entry to 9,000 people, 40 per cent of whom were minors without the right documents.³

Some officials from the Departments for Migration and Identification and Immigration did not believe they had the authority to intervene in trafficking cases, while border guards at the Ciudad del Este frontier reported that corruption was so endemic that if they refused to take bribes they risked losing their lives as well as their jobs.

Articles 222 and 223 of the Penal Code prohibit some child trafficking, but the current legislation does not criminalise trafficking for forced labour and services, internal trafficking, the irrelevance of coercion when children are involved or all those complicit in the trafficking process. Paraguay is therefore not in compliance with the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which it has ratified.

Some law enforcement officials believed that the crime of trafficking can only be committed in the country of destination and police tend to treat women and girls trafficked for sexual exploitation as prostitutes and criminals. Trafficked people are therefore reluctant to report cases because of a lack of confidence in the justice system, fear of reprisals from the traffickers and pressure from their families to keep providing an income.

The lack of appropriate legislation and the lack of awareness of trafficking amongst police explain why few cases are filed against traffickers and even less prosecuted. Between 2002 and 2004, only one out of 21 trafficking cases where information is available on the status of prosecutions resulted in a penal sentence.

Child prostitution in Paraguay

Figures regarding the number of children who are in prostitution vary, but several experts consider that at least half of those in prostitution are minors. An ILO-IPEC study carried out in Asunción in 1999 found that approximately 25 per cent of some 2,700 prostitutes were under the age of 16.⁴ Research carried out by Céspedes in 2000 estimated that there were some 5,727 sex workers between Asunción and Ciudad del Este and that two out of every three were minors.⁵

Luna Nueva's experience of working with children in commercial sexual exploitation in Asunción indicates that there are two different profiles. The first are children who are sent to the city to work as domestics and escape from abusive situations or are thrown out by employers. They have often lost contact with families and are

³ Grupo Luna Nueva, *op. cit.*, page 187.

⁴ The Protection Project at the John Hopkins University of Advanced International Studies, *Trafficking in persons, especially women and children, in the countries of the Americas – a regional report on the scope of the problem and governmental and non-governmental responses*, IOM, Chile, 2002, page 23.

⁵ Jose Gaspar Britos/PREVER, *Explotación Sexual Comercial de Niñas y Adolescentes, Paraguay – Ciudad del Este*, ILO-IPEC, Asunción, June 2002, page 7.

introduced into prostitution by other girls or a boyfriend as a means of survival. Until 2004 these girls were highly visible at the bus terminals, the port and other locations around the city centre.

Since then the problem has become more clandestine. This is due to an ILO awareness raising campaign and to the municipal order which closed bars and brothels from 1.00am in Asunción on weekdays and from 3.00am at the weekend. This has displaced prostitution to flats and to the settlements on the outskirts of the city. Luna Nueva found that girls in prostitution in these settlements tend to have been born in the city, work in groups of around six and do not have an obvious pimp. They are often living with other adolescents or a partner, although they retain a link to their neighbourhood and sometimes to their family. Generally these girls come from the very poor families where violence and instability is commonplace.

In 2002, ILO-IPEC commissioned research on the commercial sexual exploitation of children in Paraguay's second largest city, Ciudad del Este (province of Alto Paraná). The researchers interviewed 101 children, all Paraguayan except six Brazilians, 83 per cent of whom were between the ages of 13 and 15 when they began to be sexually exploited. The primary reasons the children gave for their involvement in commercial sexual activity was that they could not find other work (over 50 per cent) or to help their family financially (40 per cent).

The impact of sexual exploitation on the children involved is quite clear. Nearly 50 per cent of those interviewed reported either physical or psychological abuse by a client. Almost all the children smoked and drank alcohol, while over 50 per cent used drugs. Of those that replied, roughly half had been ill or felt unwell in the last three months and the majority displayed signs of physical abuse, apathy, physical weakness or fragility.⁶ Over 70 per cent of the children interviewed said they did not have access to condoms even though almost all of them knew this was the way to prevent HIV/AIDS.⁷

No research has been done into the commercial sexual exploitation of boys to date. However, the available information indicates that transsexual boys begin working in prostitution in Asunción at around 13 years old and often fall victim to traffickers who take them to Milan in Italy where they have to work off a debt of around US\$7,000. Most of them never manage to pay off their debt and many die in Milan of AIDS or drug addiction according to the testimony of one of the few who was helped by a client to return to Paraguay.

The high level of violence and sexual abuse within the home and in society more generally is an important factor contributing to commercial sexual exploitation. Children are often victims of sexual or physical abuse before becoming involved in prostitution. A study which covered secondary school students in Ciudad del Este found that some 31 per cent reported physical or emotional violence in their home, while nearly 20 per cent of those interviewed in the ILO/IPEC study reported being subjected to sexual abuse while still living with their families.⁸ The Government needs to undertake action to counter this kind of behaviour as a matter of priority.

⁶ Jose Gaspar Britos/PREVER, *op.cit.*, pages 24, 39, 40 and 29.

⁷ Jose Gaspar Britos/PREVER, *op.cit.*, pages 37-38 and 41.

⁸ Jose Gaspar Britos/PREVER, *op.cit.*, pages 3 and 39.

The police do not have any specialised personnel who are trained to investigate cases of commercial sexual exploitation of children and there also seems to be little appreciation by law enforcement that children in prostitution could be victims of a crime. This is reflected in the fact that nearly one third of children interviewed reported being detained by the police and, worse still, a further seven per cent reported being sexually abused by the police. Police and other public officials are also considered to be directly involved in the sexual exploitation of children. In this context, it is not surprising that the children affected distrust the authorities, with just one per cent having confidence in the Government.⁹

Outstanding issues which the Government needs to address

There are many positive initiatives which have been undertaken in Paraguay to tackle trafficking and the commercial sexual exploitation of children. The Ministry for Children (Secretaría Nacional de la Niñez y Adolescencia) is responsible for protecting the rights of children nationally and has overseen the approval of the Children's Code (Código de la Niñez y Adolescencia, 2001); the establishment of the National System of Comprehensive Protection and Promotion for Children and Adolescents (Sistema Nacional de Protección Integral de la Niñez y Adolescencia); and the development of national plans to combat both the sexual exploitation of children and child labour.¹⁰

The Ministry is also involved in the Inter-Institutional Roundtable on Trafficking in People (La Mesa Interinstitucional de Trata de Personas) which brings together more than 30 representatives from different governmental bodies, the ILO, UNICEF, the Inter-American Development Bank (IDB) and some NGOs so that they can co-ordinate their policies and responses to trafficking.

Together these initiatives provide a framework for combating trafficking and the commercial exploitation of children. However, the national plans to combat both the sexual exploitation of children and child labour need to be strengthened. In some places they lack details of how goals will be achieved and, crucially, there are no timelines or budgets attached to the plans. The Roundtable on trafficking still needs to develop a national strategy against trafficking in persons which also addresses these issues and designates clear responsibilities to the appropriate institutions.

Specifically, there is a need to introduce a law that prohibits and punishes all forms of trafficking in persons, in line with the UN Protocol on trafficking. Current legislation relating to the sexual exploitation of children also needs to be amended to ensure that it covers all forms of sexual exploitation (e.g. sex tourism) and that the penalties are commensurate with the crimes committed (many individuals who have been prosecuted under existing laws have only received fines).

⁹ Jose Gaspar Britos/PREVER, *op. cit.*, pages 39, 47 and 43.

¹⁰ The National Plan for the Prevention and Eradication of the Sexual Exploitation of Children and Adolescents and the National Plan for the Prevention and Eradication of Child Labour and the Protection of Adolescents were developed in consultation with governmental institutions and civil society. Both plans were approved in December 2003 and formally adopted in May 2004.

The Government also needs to tackle the widespread lack of confidence in the justice system, particularly in the police and the judiciary, if any revised legislation is to be effective. The UN Special Rapporteur on the sale of children, child prostitution and child pornography noted in his report on Paraguay that the problem of corruption in Paraguay was a “structural” one.¹¹

Institutions involved in combating trafficking and the commercial sexual exploitation of children need to be strengthened. For example, there is a clear need for technical training for the judiciary, police and immigration on the law and their responsibilities for implementing it. Delays in the implementation of counter-trafficking projects funded by the Inter-American Development Bank and the US government indicate that Government departments may need some technical assistance to build capacity.

Direct services to children are generally provided through local offices for the protection of children’s rights called CODENIs (Consejerías por los Derechos de la Niñez y Adolescencia), but service provision via CODENIs is inadequate. At the end of 2005, only about half of the municipalities had CODENIs and many of these lacked the most basic resources including transport, specialist care and even accommodation. For example, in Presidente Franco the CODENI does not have an office; in Los Cedrales the CODENI has no budget and has operated for a year on a voluntary basis; and in Asunción only 10 out of the 6,000 municipal officials work in CODENIs.¹² Consequently, in practice, some CODENIs are just one person with an inadequate budget and that person may be a political appointment without the necessary skills or qualifications for the job.

CEAPRA and Luna Nueva, both NGOs, are the only institutions currently providing specialised services to children who have been trafficked and subjected to commercial sexual exploitation. The Government should commit to providing long-term financial support to these organisations¹³ and then seek to extend services beyond Asunción and Ciudad del Este. Despite their current limitations, CODENIs could provide a national network of information and assistance to children who are victims of trafficking and sexual exploitation if they are provided with the proper training and funding.

Finally the Government needs to consider how it can meet the basic needs of socially marginalised communities who are living at or below the poverty line. Providing better local education and employment options would help to address the root causes which lead to children being trafficked and sexually exploited. Indeed social spending in Paraguay is currently not even a third of that of neighbouring countries.¹⁴

Criadazgo and child domestic workers

Domestic work is generally not valued in Paraguayan society. This is clearly seen in the way that the law allows employers to provide terms and conditions of employment

¹¹ Juan Miguel Petit, UN Special Rapporteur on the sale of children, child prostitution and child pornography, *Report on Mission to Paraguay*, E/CN.4/2005/78/Add.1, United Nations, Geneva, 9 December 2004, page 16.

¹² Juan Miguel Petit, *op. cit.*, page 18.

¹³ Luna Nueva’s centre receives no state support and had to close twice because of lack of funds.

¹⁴ Grupo Luna Nueva, *op. cit.*, page 41.

to adult domestic workers which would be illegal in any other occupation. For example, an adult domestic worker can be paid 40 per cent of the national minimum wage; their maximum work day can be 12 hours (rather than eight); they do not have a right to days off on Sundays or national holidays; and they do not have to be provided with a written contract.¹⁵ Given that adult domestic workers can legally be exploited in this way it is not surprising that many child domestic workers are working in conditions of forced labour.

According to the 2000/01 Survey of Homes (*Encuesta Integrada de Hogares*), there are over 38,000 children between 5-17 who are employed as domestics in other peoples homes and receive some payment for the work they do. Their work would typically include cleaning the house, shopping, ironing, cooking, washing clothes and looking after smaller children.¹⁶

A second group of children who are extremely vulnerable to exploitation are those involved in the *criadazgo* system, in which they live and work as domestics in the homes of other families in exchange for accommodation, food and a basic education. A child working in *criadazgo* is not paid anything for their work. A study carried out in 1994 estimated that there were 11,449 children between 5-17 working in *criadazgo* in Asunción alone.¹⁷

Employers do not consider that children in *criadazgo* are working, so it is generally not recorded when official statistics on child labour are compiled. Employers regard themselves as benefactors who are giving children better opportunities in return for some help with domestic chores. The children themselves often do not identify what they are doing as work, because it is not valued as such and because they are not being paid.

It is reasonable to assume that the vast majority of children in *criadazgo* and a very significant percentage of child domestics who are living and working in other people's homes are working in conditions of forced labour as they have little or no control over their working conditions or how they are treated and are usually unable to leave their jobs and return to their family.

Research carried out by the Centro de Documentación y Estudios (CDE) in 2002 amongst child domestic workers receiving a salary and those in *criadazgo* showed that nearly 60 per cent were 13 years old or less, but only eight per cent lived with one or both of their parents. Nearly 50 per cent of those interviewed lived with employers

¹⁵ Line Bareiro, *et. al.*, *Necesarias, invisibles, discriminadas. Las trabajadoras del servicio doméstico en el Paraguay*, ILO and CDE, Paraguay, 2005, pages 36-39.

¹⁶ Roberto Céspedes, *Seguimiento de Indicadores sobre la Niñez Trabajadora de Paraguay según las Encuestas de Hogares*, ILO-IPEC/UNICEF, Asunción, 2003, page 28.

¹⁷ Ernesto Heisecke *et al.*, *Las Criaditas de Asunción*, 1995. Quoted in Clyde Soto, *et. al.*, (Centro de Documentación y Estudios), *Prevención y Eliminación del Trabajo Infantil Doméstico en Paraguay – Evaluación Rápida sobre Trabajo Infantil Doméstico en Hogares Terceros en Paraguay*, ILO-IPEC, Paraguay, June 2002, page 10. Other research suggests that some 64 per cent of all child domestic workers are in the *criadazgo* system, see Marta Giménez *et. al.*, *La comunicación como herramienta de transformación social para la prevención y eliminación del trabajo infantil doméstico*, ILO, Asunción, 2004, page 22.

or people who are not related to them, indicating that the majority of child domestic workers are physically separated from their family at a very young age.¹⁸

The physical isolation of the child from their family leaves them extremely vulnerable to exploitation, but also to cruel or degrading treatment. In CDE's research, many children described being mistreated by their employers, including being insulted (33 per cent), having to eat left-overs (20 per cent), being hit or kicked (12 per cent) and sexual abuse (5 per cent).

Although many children recognised that they were better off materially with their employers, 63 per cent said they wanted to return to their homes. Of those who wanted children in the future, 80 per cent said they did not want them to work as domestics because of their own negative experiences.¹⁹

In some cases families lose touch with their children altogether. This may be because the employers try and stop the children contacting their families (12 per cent of cases in the CDE research) or because the child runs away from employers to escape exploitation and abuse. If a girl become pregnant as a result of sexual abuse or they are not considered a good worker, they may be thrown out of the house by their employer.

Once out on the street, these children have no way to make a living or return home and often fall into prostitution. According to Luna Nueva's study of adolescents working in prostitution, almost 90 per cent had previously been child domestic workers in the *criadazgo* system.²⁰

The Government response and remaining challenges

On 22 March 2005, the Government approved a list of child labour activities which it considered dangerous to the health, safety or morals of children. This list includes child domestic work and *criadazgo*.²¹

The minimum age for performing the activities on the list is 18, but domestic work is the only exception and can be done at 16 or 17 years old, but only if the education, health and the security of the child is protected and they have been adequately trained for the tasks involved. This provides a clear legal framework for ending exploitative forms of child domestic work. However, the fact that domestic work takes place in the home, where it is difficult to monitor, means that it is equally important to change public attitudes towards *criadazgo* and domestic work in general. In 2002, a survey showed that some 46 per cent of those interviewed thought that giving children to

¹⁸ The research involved interviews with 420 child domestic workers, 118 families of the domestic workers and 34 employers. Clyde Soto, *op. cit.*, page 16

¹⁹ Clyde Soto, *op. cit.*, page 6.

²⁰ Grupo Luna Nueva, *op. cit.*, page 77.

²¹ The list was drawn up by the National Commission for the Prevention and Eradication of Child Labour (CONAETI) as part of the National Plan for the Eradication of Child Labour and in line with ILO Convention 182. As well as child domestic work and *criadazgo*, the list includes activities that expose children to toxic substances or agricultural chemicals; work in mines or underground; and night work (between 7.00pm and 7.00am).

others for *criadazgo* was good, with the percentage reaching nearly 60 per cent in the more rural areas of the country.²²

Measures must be taken to enforce the new laws prohibiting all domestic work under 16 and should be accompanied by further awareness raising with the general public about the harms of *criadazgo* and child domestic work. This could involve reviewing the discriminatory laws relating to adult domestic workers, which would not only help to change attitudes to domestic work, but it would also help to alleviate poverty in the households of adult domestic workers.

Awareness raising and capacity building programmes for CODENIs and schools are also key to the long term solution because these institutions offer local services, operate nationally and are supported under a national budget.

Providing good quality and accessible education in rural areas, along with social policies to provide employment options for women, would help to counter the pressures which encourage families to send their children to work away from home.

Child soldiers

Military service is obligatory in Paraguay for men over the age of 18.²³ However, in practice children between the ages of 12 and 17 are recruited, either through force or by persuading their parents to authorise their recruitment. In one case, Pedro Antonio Centurión, an Argentine, was forcibly recruited for military service when he was 13 years old. His mother said the boy was virtually kidnapped by the army who said he was tall enough to do military service. In September 2000, the boy was killed by a single shot in the head. The authorities claimed his death was suicide and tried to block an autopsy being carried out. It later transpired that the boy's documents had been falsified in order to present the boy as an 18 year old Paraguayan.²⁴

In 1999, it was estimated that 84 per cent of those recruited into the military and police were 17 years old or less and 36 per cent were 15 years old or under.²⁵ Since this time the number of complaints relating to forced recruitment of children into the armed forces has diminished, but the practice continues. This was documented by the Inter-Institutional Human Rights Commission for Visiting Barracks when they carried out a series of visits between 7-29 March 2005 and interviewed 1,458 conscripts. The Commission found that 168 children had been enlisted.

While children are carrying out their military service they are obliged to perform forced labour, which benefits their superiors and for which they are not paid. SERPAJ-Paraguay registered 52 cases of forced labour involving at least 643 soldiers between 1991-98. SERPAJ- Paraguay also documented 110 cases of individuals aged between 12 and 20 years old who were killed while performing their military service

²² Verónica López, *Trabajo Doméstico Remunerado en Paraguay*, ILO, Asunción, 2005, page 199.

²³ Some groups are exempt from this (e.g. conscientious objectors, indigenous people and priests).

²⁴ Quoted in Coordinadora de Derechos Humanos de Paraguay (CODEHUPY), *Informe Alternativo de la CODEHUPY al Segundo Informe Periódico del Estado de Paraguay del Pacto Internacional de Derechos Civiles y Políticos*, CODEHUPY, Asunción, 2005, page 65.

²⁵ Quoted in CODEHUPY, *op. cit.*, page 61.

between 1989 and 2005.²⁶ Some of these cases are currently before the Inter-American Court on Human Rights.

The Government has argued that children are in the armed forces either because they want to be or because their parents have placed them there because of their own poverty. However, the issue of consent is not relevant when Paraguay's own regulations state that no one under 18 can be recruited into the armed forces. The Government must remove all children from military service as a matter of urgency and ensure that the recruitment of minors is completely stopped, in compliance with domestic and international laws, including ILO Convention No.182.

²⁶ CODEHUPY, *op. cit.*, page 63.