

Contemporary forms of slavery in

Paraguay

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Map of Latin America



Map of Latin America



1. Background

The economic crisis which hit the southern cone in the late 1990s affected Paraguay particularly severely because of its large informal economy and weak political institutions. Democracy was only re-established in Paraguay in 1989 after a prolonged period of dictatorship under Stroessner (1954-1989). The economic crisis resulted in per capita incomes falling by 15 per cent between 1999 and 2003.²

In 2003, President Duarte Frutos was elected with a clear popular mandate to sort out the economy and tackle corruption. However, poverty and crime increased without any appreciable impact on corruption and this undermined faith in the democratic process. One survey found that 90 per cent of the population was dissatisfied with the way democracy worked in Paraguay and 44 per cent believed that authoritarian government can be preferable to democracy (the highest percentage in Latin America).³

This disillusionment is clearly linked to poverty levels which rose to affect 34 per cent of the population by 2001, 16 per cent of whom were in extreme poverty. Three quarters of those in extreme poverty lived in rural areas.

Inequalities of wealth are stark with just 10 per cent of the population receiving 58 per cent of the national income and the poorest 50 per cent getting just under seven per cent.⁴

Development indicators¹

Classified as a moderately indebted lower middle income economy (\$826-\$3,255 GNI per capita).

Population: 5.8 million

Urban population: 57 per cent of total population

GNI per capita: US\$ 1,170

Poverty: Not available

Life expectancy: 71 years

Infant mortality: 25 per 1,000 live births

Child malnutrition: Not available

Access to an improved water source: 78 per cent of the population

Illiteracy: 8 per cent of the population over 14

¹ Latest statistics available have been used, primarily from the World Bank, World Development Indicators database, August 2005.

² World Bank, *Country Assistance Strategy for the Republic of Paraguay, 2004-2007*, World Bank, Asuncion, December, 2003, page 7.

³ World Bank, *op. cit.*, page 14.

⁴ 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 41.

Paraguay's adherence to some of the principal international standards which prohibit contemporary forms of slavery

International standards	Ratified	Signed but not ratified	Not signed or ratified
ILO Convention No. 29 on Forced or Compulsory Labour, 1929.	✓		
UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956.			✓
UN International Covenant on Civil and Political Rights, 1966.	✓		
UN Convention on the Elimination of All Forms of Discrimination against Women, 1979.	✓		
UN International Convention on the Protection of the Rights of All Migrant Workers and Their Families, 1990.		✓	
ILO Convention No. 182 on the Worst Forms of Child Labour, 1999.	✓		
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention on Transnational Organized Crime, 2000.	✓		

2. Forced labour of indigenous people

2.1 The context of forced labour in the Chaco

The Chaco covers 60 per cent of Paraguay, but only 2.5 per cent of the national population lives there. It is home to 15 of the 20 different indigenous groups that live in Paraguay, including Nivaclé, Enlhet Norte, Enxet Sur, Angaité, Sanapaná, Ayoreo, Guayaní Nandeva.

Much of the indigenous land was sold off to foreign speculators by the Paraguayan Government in 1885, obliging many indigenous people to become labourers on the estates.⁵ Today, indigenous groups suffer

⁵ Stephen Kidd, *The working conditions of the Enxet indigenous people in the Chaco*. Printed in *Enslaved Peoples in the 1990s: Indigenous peoples, debt bondage and human rights*, Anti-Slavery International and IWGIA, Copenhagen, 1997, page 156.

from high unemployment and illiteracy rates (51 per cent are illiterate) and most do not have access to their own land.⁶

Cattle ranches are the only real source of employment in the Chaco and offer temporary work (clearing undergrowth, repairing fences and harvesting crops) and permanent work (cutting down trees, tending livestock or looking after crops). Women are often employed as domestic workers on the ranch.

While conditions vary from one estate to another, many of these indigenous workers, particularly those in permanent positions, are in forced labour situations, primarily through debt bondage.

The minimum wage varies with the size of the estate, despite the fact that workers on smaller estates tend to work just as hard as those on the larger ones. On estates with less than 4,000 head of cattle the minimum wage would be 14,885 guaraníes (US\$2.43) a day. For those with more than 4,000 head of cattle it is 20,486 guaraníes (US\$3.34) a day. In practice, indigenous workers receive far below the minimum wage. One man who was working on an estate with a good reputation stated that he earned 2,500 guaraníes (US\$0.41) a day.⁷ This is not a new phenomenon. Research carried out in 1994 found that 17 out of 22 estates were paying workers less than the minimum wage.⁸

Domestic workers often receive less than half of what men earn and can just receive a symbolic payment. The Labour Department confirmed to ILO researchers that it is common practice for women indigenous workers to provide free labour to the owner of the estate.⁹

Workers are supposed to receive their salary after one month, but the public prosecutor's office in

Filadelfia noted that it is "normal" to find workers who have worked three or four months without receiving any payment.¹⁰ During this time workers will buy food and other essential provisions at the estate shop where prices are inflated. This means that most, if not all, their salary will be used to pay off their outstanding debts at the estate shop and some will have an ongoing debt from one pay day to the next.

Case study of forced labour in the Chaco¹¹

Emilio (not his real name) worked for more than 15 years on an estate and never received a salary, just food, clothes and basic goods in exchange for his labour. He worked every day from around 5.00am to 5.00pm and there were no days off. Although he was free to leave the estate, it was around 15 km to the next town.

There were about 50 workers on the estate and although there was no physical violence Emilio said the workers were treated badly, including not paying family members for the work they did on the estate. Emilio continued to work on the estate because he was there with a group of relatives and they wanted to stay together. He finally left in 1999 because the owner made it difficult for him to leave and visit other members of his family. He said the estate continued to use the same system and other estates exploited workers in similar ways.

⁶ Only 45% of indigenous communities in Paraguay have land despite the fact that it is guaranteed to them in the constitution (half of these have no land and the other half do not have the proper titles). However, even those with land lack the capital or access to loans to use it commercially or cannot live from it because their holding is too small, the land is infertile or there is no access to water sources. See Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *Servidumbre por Deudas y Marginación en el Chaco de Paraguay*, ILO, Geneva, July 2005, page 30.

⁷ Interviewed by Anti-Slavery International in the Chaco, 24 November 2005. All workers on this estate were paid regularly and hours were from 5.00am to 11.00am and from 2.00pm to 5.00pm.

⁸ Stephen Kidd, *op. cit.*, page 15. The conditions on the estates described by Kidd in his research in 1994 are practically the same as those that exist today, more than a decade later.

⁹ Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *Servidumbre por Deudas y Marginación en el Chaco de Paraguay*, ILO, Geneva, July 2005, pages 16-17.

¹⁰ Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *op. cit.*, page 20.

¹¹ Interview carried out by Anti-Slavery International in the Chaco, 24 November 2005.

Case study of forced labour in the Chaco

Juana (not her real name) worked for 10 years on one cattle ranch doing the cooking, cleaning and laundry for the 40 workers on the estate. She also did the domestic work at the house of the ranch owner and milked the cows. She was recruited from the community and worked from 2.00am to 5.00pm every day for which she earned 4,000 guaraníes (US\$0.65) a month, but she was only paid every three months and was left with very little after she had paid off her debts at the store.

The nearest town was 15 km away, but she could not leave the estate as there was no one else to do her work and she was not given any days off. This meant that she did not have the opportunity to try and find another job. She was sexually abused while working on the estate, but did not know how or where to report this.

Another member of the same community confirmed that the vast majority of the estates continued to use similar systems and that he only knew of one estate out of 20 in the surrounding area that treated the workers well. He said that despite the risks around six men had left the community in 2005 to work on the estates because of the lack of alternatives. Hunting is the only other means of survival, but the estate owners do not give permission to hunt and some times of the year are not good for hunting.



above: Indigenous workers from the community of Buena Vista, in the Chaco.

The long working day, the distance of the estates from the nearest town, their lack of money to pay transportation costs and the fact that many workers only have half a day off a week or less, makes it impossible for them to get their provisions from alternative sources. In some cases there are direct restrictions on workers' freedom of movement. Anti-Slavery International carried out interviews with former estate workers in which several testified that they were not given any days off at all and had to ask permission to leave the estate. Another man said he was only allowed to leave the estate every 15 days and if he wanted to leave at any other time he had to ask the permission of the owner, who often refused such a request.¹²

ILO research showed that sugar, rice and other basic items sold in the estate store, which permanent workers should get free (Article 169 of the Paraguayan Labour Code), were being sold for between 14 to 81 per cent more than the price at the nearest urban settlements.¹³

Some workers receive *provista* (a basket of food and other basic goods like candles, soap and washing powder) as the main part of their pay. However, this is often filled with poor quality goods and/or charged at inflated prices. Some estates do not consider the number of children that the family has to feed when giving the *provista*. In both cases workers have to buy more goods at the estate shop and become further indebted. The books of one estate showed that indigenous workers were receiving up to 53 per cent of their salaries in kind.¹⁴

The high illiteracy rate amongst indigenous people and the fact that only a fraction speak Spanish makes it easier for them to be deceived regarding the value of goods provided to them and the exact nature of their debt.

The combination of paying salaries below the minimum wage, overpricing goods in the estate shop, and providing a large part of their salaries via inadequate *provistas*, leaves indigenous

workers with little or no money or indebted to the estate. Long working hours, little or no holidays and other limits on leaving the estates, restricts workers options as they do not have the time to travel to buy goods at the nearest town at cheaper prices or look for work elsewhere. This system maximises the profits for the estate and ensures that they have a cheap and secure labour supply without the need for violence.

The ILO research estimates that 8,000 indigenous people are directly involved in forced labour or at risk of becoming forced labourers. The estimate is based on the fact that some 10 per cent of indigenous families receive the *provista* (figures from the national census of 2002).¹⁵

2.2 The failure of existing labour legislation

The National Constitution prohibits slavery, servitude and trafficking in persons (Article 10) and Article 47 of the Labour Code states that a contract will be void when it fixes a salary under the minimum wage or if it involves direct or indirect obligations to buy goods or food from shops, businesses or a place determined by the employer.

Articles 231 and 176 of the Labour Code state that only 30 per cent of wages can be paid in kind and the value of these goods must be the same as those at the nearest urban settlement. ILO research and interviews carried out by Anti-Slavery International show that these provisions are not being enforced in practice.

The vulnerability of the indigenous community to forced labour and exploitation is exacerbated by the fact that there is no active trade union to defend their interests and individuals can easily be blacklisted as estate owners normally ask for a reference from a previous employer. Retribution for challenging injustice may fall on an indigenous group as a whole and not just on the worker involved.

¹² Interviews carried out by Anti-Slavery International in the Chaco, 24 November 2005. The ILO research published in 2005 also notes the use of other mechanisms to ensure the economic dependence of workers such as preventing them from working on their own parcels of land or prohibiting visits from family members to the estate.

¹³ Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *op. cit.*, pages 17-18.

¹⁴ Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *op. cit.* pages 17-18.

¹⁵ Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *op. cit.* pages 22-23.

A government official said indigenous workers "are not qualified workers, nor are they the preferred workers... the boss doesn't want to employ indigenous any more". Work that used to be done entirely by indigenous workers now has 30 per cent non-indigenous employment, generally in the higher paid jobs.¹⁶

Individuals interviewed in November 2005 noted that there are less indigenous people working on some estates now because they are seen as trouble makers due to the legal action that has been taken to try and reclaim their land.

The Indigenous Census of 2002 showed that in the Departments of Boquerón and Presidente Hayes, less than 50 per cent of indigenous people would feel comfortable reporting an issue to the local authorities including the police and public prosecutor.¹⁷ However, even where individuals are committed to using the existing legal provisions to access their rights, there are significant obstacles which stand in their way.

The Ministry of Labour and the National Institute for the Indigenous (INDI) do not have a single office in Chaco or the three departments west of the Rio Paraguay, nor are there any labour judges in the area. This means that even if indigenous workers know their rights and are willing to fight for them, they still need to find the money to travel to Asunción to seek advice and try and resolve their problems.

Article 408 stipulates that the labour laws must be applied through inspection services, but there are no labour inspectors in the Chaco. There is insufficient monitoring by the government to identify and prosecute breaches of the labour code with inspectors waiting for complaints to be made before acting. A labour judge confirmed that "the authority of the Ministry of Labour is totally absent; they are at the mercy of their employers."¹⁸ Even when inspectors were sent to the region to investigate they were refused access to some estates, which they cannot enter without judicial authority.

2.3 What the Government is doing

In March 2005, the Ministry of Justice and Labour (Ministerio de Justicia y Trabajo) held three separate workshops, for trade unions, employers and state officials, to share and discuss the findings of the ILO research. One of the conclusions from these workshops was that the Ministry should open an office in the Chaco where people can go for assistance. The Ministry aims to set this up in 2006 and is seeking an appropriate office in the region and funding from the national budget for an employee.

The Government is looking to produce a popular leaflet which summarises the issues in the ILO report and gives people information on where they can go to make complaints and get assistance. The Government intends to publicly launch the ILO report in 2006 with printed versions available in both Spanish and Guaraní in order to raise awareness of the forced labour issue among the general public. It also wants to form a tripartite commission to take the issue forward. The Commission would also include representatives of other key organisations like the Catholic and Menonite churches.

2.4 Conclusions

The indigenous population (87,099 people) represents 1.7 per cent of the national population and is the most socially excluded sector of Paraguayan society. Over 50 per cent of indigenous people are illiterate as compared with the national average of just seven per cent.

Of the 164 indigenous communities which live in the Departments of Boquerón and Presidente Hayes, 19 per cent do not have access to a primary school and 46 per cent do not have regular access to any type of health professional.

Those living in urban areas lack access to basic public services. For example, in Casa Pasajera near Filadelfia there is no electricity, sporadic access to water and three latrines for some 400-

¹⁶ Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *op. cit.* page 8.

¹⁷ Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *op. cit.* page 8.

¹⁸ Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *op.cit.*, page 30.

500 people. The situation is worse for those living on or next to the estates, where there is generally no access to any basic services.

Where they are employed, indigenous people are paid less than their Paraguayan colleagues for equal work. Indigenous workers on estates will receive the equivalent of \$35-78 a month whereas Paraguayans will get \$87-155 a month with housing and food provided free.¹⁹

The social and economic marginalisation of the indigenous communities needs to be reversed through the provision of better education, health care and sustainable alternative sources of income, including access to land and credit. The decision of the Inter-American Court of Human Rights in the case of the Yakye Axa community (17 June 2005) clearly outlines the Government's obligations towards indigenous peoples in Paraguay. The Court ordered the Government to return the traditional land of the Yakye Axa community to them within three years; to create a fund to finance development projects for the community; and to provide the community with assistance until the land is returned to them including, food, medical assistance and education.²⁰

Apart from addressing the social exclusion of the indigenous communities, the Government also needs to establish its presence in the region and ensure that the provisions of the Labour Code are fully implemented.

right top and bottom: Indigenous people demonstrating.

below: The indigenous community of Buena Vista located 40 km from the city of Concepción.

This will require opening an office of the Ministry of Justice and Labour in Chaco, training inspectors to identify and deal with forced labour situations and providing them with adequate resources so that they can actively monitor the situation on the estates.

The Government must ensure that all workers receive the minimum wage and should remove the current anomaly whereby workers on smaller estates can be paid a lower amount. There is also a need for further research into the extent of forced labour in other areas of Paraguay, including along the border between Paraguay and Brazil.

The Government's plan to establish a tripartite committee, with other appropriate members of civil society, would provide a suitable forum for developing an Action Plan to Eradicate Forced Labour which could include these and other measures.



Tieraviva



Tieraviva



Tieraviva

¹⁹ Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *op. cit.*, page 16

²⁰ For full details of the Court's decision see: http://www.corteidh.or.cr/seriecpdf/seriec_125_esp.pdf

3. Trafficking

3.1 The social context of trafficking in Paraguay

Between 2001 and 2002 those living in poverty rose from 34 per cent of the populations to 48 per cent. Extreme poverty was higher in the countryside than in the cities where basic social services do not even cover 40 per cent of the rural population.²¹

The economic crisis particularly affected women who have very restricted employment options in Paraguay. More than 20 per cent of all economically active women are employed in domestic work where they are subjected to exploitative and discriminatory conditions which are legally sanctioned (see section 5 for more details).

There is a high degree of tolerance in society for physical and sexual violence against women. Twenty five per cent of all violent crime in Paraguay is against women and girls in the home.²² Half of all reported cases of family abuse against children involves sexual abuse and 30 per cent of these cases lead to pregnancy. It should be noted that abortion and illnesses related to the lack of sexual and reproductive health care constitute the principal cause of death among young women in Paraguay.²³

In this context, it is not surprising that an offer of work abroad is a very attractive proposition,

Regional destinations for trafficked Paraguayans



especially as the potential migrant is likely to know at least one family which is receiving money from a relative abroad. Indeed, the Inter-American Development Bank (IDB) estimates that \$506 million are sent to Paraguay as remittances each year.²⁴

²¹ Grupo Luna Nueva, *op. cit.*, page 40.

²² PNUD, 2002. Quoted in Grupo Luna Nueva, *op. cit.*, page 41.

²³ Grupo Luna Nueva, *op. cit.*, page 40.

²⁴ Quoted in Brigitte Colmán, *Remesa de emigrantes ayuda a paliar la pobreza en Paraguay*, *Ultima Hora*, 27 November 2005, page 2. There are more than 1.2 million Paraguayans living in Argentina, 30,000 in Spain and 20,000 in the United States.

3.2 The realities of trafficking for sexual exploitation in Paraguay

Between 1 September 2004 and 15 January 2005, Grupo Luna Nueva carried out research for the IOM on trafficking in Ciudad del Este (Department of Alto Paraná), Encarnación (Department of Itapúa), Villarrica and Colonia Independencia (Department of Guairá) and Asunción and the metropolitan area (Department Central).

The research compiled information from legal cases, reports of trafficking in the Paraguayan media between 2000-04 (ABC, Última Hora, Noticias and La Nación) and from an internet search of the media in Argentina and Spain. Information was also gathered through 186 interviews with individuals from public institutions, NGOs, key informants and trafficked people themselves.

In this way, 118 cases were recorded, involving 495 women and girls. All but three of the cases took place between 2000 and 2004 and the number of recorded cases has increased steadily in recent years:

2002:

8 cases, 42 women affected (12 minors)

2003:

29 cases, 109 women affected (37 minors)

2004:

61 cases, 236 women affected (56 minors)²⁵

Grupo Luna Nueva's research gives an indication of the scale of trafficking, but it should be stressed that the total number of people affected will be much higher due to under-recording. For example, trafficking of boys and men for sexual exploitation is not generally acknowledged in society and therefore remains undocumented (see section 4.1 for further information on this). 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 (see particularly sections 5.2 and 5.3 for more details on these cases). Finally, cases reported by key informants, but not independently verified by the researchers were not included (e.g. the 15 children from Pedro Juan Cabellero who were reported to have been trafficked to Sao Paulo in Brazil in 2003).

Destinations of trafficked people

Spain and Argentina are the principle destinations for Paraguayans. Over half the women documented were trafficked to Argentina (259 women), with most going to Gran Buenos Aires, La Plata, Córdoba, and Santa Fe. Río Negro and Catamarca were also locations where women were exploited, although less frequently. A further 25 per cent (169 women) were trafficked to Spain, where Castilla La Mancha and the Canaries were common destinations.

Two per cent of trafficked Paraguayans went to both Bolivia and Brazil and seven per cent elsewhere, including France, Hong Kong, Switzerland and Greece. Interviews during the research indicate that women are also taken to Belgium, Denmark, Finland, Germany, Italy, Canada, Japan and Arabic countries.²⁶

The remaining 12 per cent of women were trafficked internally, mainly to the principal cities of the country, but also to farming colonies or construction zones. More than half of those trafficked internally were under 18 years old.

Trafficking of children

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.²⁷

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.

²⁵ The great majority of the people trafficked were Paraguayans, but Brazilians have been trafficked to Paraguay for exploitation in Itapúa and Alto Paraná and cases of trafficked Argentines and Bolivians have also been reported in Asunción and Encarnación. Grupo Luna Nueva, *op. cit.*, page 51.

²⁶ Grupo Luna Nueva, *op. cit.*, page 52-54.

²⁷ Grupo Luna Nueva, *op. cit.*, page 54.



above: Destinations in Spain to which Paraguayans are trafficked.

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.

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 through 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.²⁸

The trafficking system

Trafficked women originate from most of Paraguay's 17 Departments, with the greatest numbers coming from Central and Asunción (36 per cent), Itapúa (22 per cent), Alto Paraná (8 per cent) and Guairá (6 per cent).²⁹ These women come from a range of different social backgrounds.

Many trafficked women and girls are from rural areas, who live in extreme poverty and have little formal education or employment options. Generally women and girls from these backgrounds are trafficked to Argentina or internally.³⁰

Women with higher education levels, from urban areas, including professionals (nurses, owners of small businesses, etc.) are more likely to be trafficked to destinations like Spain, where they are offered work in bars, hotels, supermarkets or

²⁸ Grupo Luna Nueva, *op. cit.*, page 187.

²⁹ Grupo Luna Nueva, *op. cit.*, page 50.

³⁰ There have been reports of indigenous being forced into prostitution in the Department of Canindeyú in order to pay back a debt incurred to traffickers who arranged their move to the city, but there is no documentation of this.

as models. The opportunity to earn foreign salaries would allow them to improve their economic situation (which may have become precarious due to the recession) and the quality of their lives and those of their family.

These women are told that they can earn five times as much in Spain as they can in Paraguay and only realise on arrival in Europe that they have been deceived by the traffickers. By this time they have either paid the costs of the trip or taken loans of between US\$3,000-5000 from recruiters who then inflate the debt by three or four times through charges on the repayment. Some of those trafficked abroad were previously trafficked internally or were already involved in prostitution in Paraguay.

Recruiters, who are commonly relations, neighbours or a local member of the community, are pivotal to the trafficking process. They would receive the equivalent of \$50-100 for women trafficked into prostitution in Argentina and \$300-600 for women going to Europe.³¹ Hundreds of thousands of Paraguayans have used informal migration networks to travel abroad and many migrants are still not aware of the risks associated with irregular migration. For those who are familiar with the dangers it is still difficult to distinguish traffickers from those who facilitate regular or irregular migration.

3.3 The investigation and prosecution of trafficking cases

The legal framework

Article 129 of the Penal Code specifically prohibits using force, threats or deception to take a person into or out of Paraguay for the purposes of prostitution and has a maximum sentence of six years imprisonment.

Articles 222 and 223 of the Code also prohibit some child trafficking. Article 222 punishes those that induce a legal representative of a child to give that child up for a false adoption through a payment or by taking advantage of their inexperience or need, with a maximum of five

The Lourde Resquín case

Lourde Resquín worked as a nurse and lived in Colonia Independencia, Department of Guaira. In March 2004, she and other women in the community were offered work in a supermarket in Spain where she would earn ten times what she earned as a nurse in Paraguay. They were loaned money for their travel expenses and arrived in Madrid on 31 March 2004.

However, from here they were taken to the province of Cuenca and forced into prostitution. Lourde managed to escape after 15 days and reported the case to the police on 29 April after she returned to Paraguay.

The case went to trial on 14 December 2004 and the two accused were found guilty of trafficking and sentenced to six years in prison. However, they appealed the decision and were released on 13 May 2005 on the grounds that the Court had no jurisdiction to try the case as the crime was committed in Spain - a finding which directly contradicts the UN Protocol on trafficking which Paraguay has ratified. The Supreme Court eventually overturned this ruling on 24 November 2005, but by then Lourde had left the country because of threats that she and her family received throughout the course of the judicial process. She now lives in Switzerland.

years in prison. The person who receives the child is liable to the same punishment. Aggravating factors carry a maximum sentence of 10 years in prison and include avoiding the adoption procedures, facilitating the transaction for economic gain and exposing the child to sexual abuse or forced labour.

Although Paraguay has ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, its

³¹ Grupo Luna Nueva, *op. cit.*, pages 94-96.

Places of origin from which Paraguayans are trafficked



IOM

current legislation does not adequately define or punishes trafficking in persons. For example, it does not cover trafficking for forced labour and services, internal trafficking, the irrelevance of coercion when children are involved or all those complicit in the trafficking process.

Few cases are identified or prosecuted

Equally worrying is the very small number of trafficking cases that have been filed under the existing legislation. There were just 51 reports of trafficking made between 2000-2004 in Asunción, Ciudad del Este, Encarnación, Luque, Nemby, San Lorenzo and Villarica.

The poor application of the law is partly explained by the lack of awareness of trafficking amongst government institutions. The police tend to treat women and girls trafficked for sexual exploitation as prostitutes and criminals. Some law enforcement officials also believed that the crime of trafficking can only be committed in the country of destination.

Immigration officials said they had no knowledge of trafficking cases through the major airports (Silvio Pettirossi and Gauraní) and, in common with the Department for Migration and Identification, did not believe they had the authority to intervene in such cases. In other areas, like Ciudad del Este, border officials appeared not only to lack training, but also the will and commitment to tackle the problem. Some 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.

It also appears that individuals within the Department for Migration and Identification (Direcciones de Migraciones e Identificaciones), which is part of the National Police, are involved in fast tracking documents for women who are being trafficked. In one case at the end of 2005, Lorena Avalos, assistant to the Senator Ada Solalinde de

Romero, was accused of using her position as a sub-official in the National Police, which the Senator requested for her assistant, to obtain the documentation for girls who were then trafficked into prostitution in Germany. It is alleged that Avalos got the documents in days when it normally takes officials between 40 days and six months to issue a passport.³²

In addition to these issues, resources also play a role in the limited application of the law. For example, there is only one Interpol post in Paraguay dealing with drugs, terrorism and human trafficking - and three different people had this post in 2004 alone. The post does not have a database of cases or the resources to visit families of victims and investigate reports.

Trafficked women are reluctant to report cases because of possible rejection by their community,³³ fear of reprisals from the traffickers or pressure from their families for them to continue providing an income. Lack of confidence in the justice system, which the available evidence indicates is well founded, is also a major reason why women do not come forward to the authorities.

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. The rest of the cases were still under investigation, had resulted in fines for the perpetrators or had been dismissed for lack of evidence or because files had been lost. Not a single case filed in Encarnación has led to a penalty being imposed, with cases pending for over a year.³⁴

The only successful prosecution was the Lourde Resquín case (see previous page). There were two important factors which helped this case to succeed. First, Lourde Resquín's strength of character and the fact that she had the full emotional and financial support of her family meant she was prepared to take the case forward and stand by that commitment over a prolonged period of time and in the face of repeated threats

³² Trata de mujeres lidera asistente de senadora Colorado, and No hay resolución que acredita su comisión al senado, <http://www.abc.com.py> Circulated by Alianza por tus Derechos on 9 December 2005 and 13 December 2005 respectively. See also Grupo Luna Nueva, *op. cit.*, pages 106 and 128 for more evidence on traffickers obtaining fast-tracked documentation from officials.

³³ Unprofessional efforts to raise awareness of trafficking have contributed to this as, in some cases, names, addresses and even pictures of trafficked women have been made public by government institutions and media outlets.

³⁴ Grupo Luna Nueva, *op. cit.*, page 176 and 252.

to her and her family. This included going to the press to give the case greater profile and put more pressure on the authorities to resolve it. Second, the prosecutor acted quickly and professionally, carrying out a search of the trafficker's property within hours and uncovering evidence that led to the identification of 59 Paraguayans in brothels in Spain.

Yet despite the evidence, the accused were not held in detention pending the trial and were left free to intimidate and threaten the family whose identity was not protected. Several judges said they were unable to try the case and the original conviction was only upheld after an appeal to the Supreme Court. The case underlined the lack of protection and support that exists for those who testify against traffickers.

Other individuals, including those working for inter-governmental organisations, have also been threatened. For example, the author of the Grupo Luna Nueva research was subjected to intimidation by an individual after the report was submitted to the Government and she subsequently left the country.

3.4 The institutional response to trafficking in persons

The Inter-Institutional Roundtable on Trafficking in People (La Mesa Interinstitucional de Trata de Personas) involves more than 30 representatives from different governmental bodies, the ILO, UNICEF, the Inter-American Development Bank (IDB) and some NGOs.

The Roundtable is convened by the Ministry for Foreign Affairs (Ministerio de Relaciones Exteriores) and has been meeting regularly since 2004, although it was only formally established on 15 April 2005.

The Roundtable provides an important forum for bringing together the different agencies which are engaged in anti-trafficking initiatives so that they can co-ordinate their policies and responses to trafficking. Some of these agencies are listed below:

- The Ministry for Foreign Affairs, through its embassies and consulates, helps to locate

trafficked people and provides them with information and assistance, although it has no funds for their repatriation. It is also co-ordinating a pilot project funded by the IDB to prevent and fight trafficking via improved legislation, training and awareness-raising.

- The Ministry for Children (Secretaría Nacional de la Niñez y Adolescencia) is responsible for protecting the rights of children at a national, provincial and municipal level, including those that have been trafficked or are at risk of being trafficked. The Ministry has signaled its intention to prevent trafficking through awareness raising and a child registration campaign (50 per cent of children are not registered), as well as facilitating the repatriation of minors to Paraguay. Direct services to trafficked 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).
- The Ministry for Women (Secretaría de la Mujer) is responsible for providing assistance to women who are at risk or have had their rights violated. This is done through local offices for the protection of women's rights called CODEMUs. In 2005, the Ministry set up a centre specifically to assist trafficked women, with funding from the US Government.
- The Ministry for Repatriations (Secretaría de Repatriados) plays an active role in individual trafficking cases despite its very limited resources. It has supported families in bringing cases; helped identify victims abroad and their subsequent repatriation; and provided basic assistance to the victim on their return (housing, food and transport to do the necessary paperwork).
- The NGO Luna Nueva assists children between 12 and 18 years old who have been prostituted or sexually exploited, including those who have been trafficked. Since 1999, it has provided outreach to women and minors involved in sex work in Asunción and has a drop in centre and a hostel with 15 bed spaces for those that need it (see section 4 for more details).

- The NGO CEAPRA (Centro de Atención Integral a Víctimas de Explotación Sexual Comercial) was formed in 2002 in Ciudad del Este as part of the ILO programme to prevent and eradicate commercial sexual exploitation in the triple frontier. CEAPRA runs a hostel with 20 places, helps children recover from their experiences and assists them in taking legal cases against their exploiters. The ILO is trying to replicate this project in Encarnación to prevent trafficking to Argentina.

Up to the end of 2005, the Roundtable had focused primarily on individual cases rather than strategy and had suffered from low levels of awareness about trafficking and a high turnover of officials representing the institutions at the Roundtable. Those attending the meetings were almost exclusively from the capital, raising questions about how the issue would be taken forward at a national level.

The establishment of an executive committee of the Roundtable has helped to clarify concepts and give the meetings more direction. In November 2005, the Roundtable met for two days to discuss the group's mandate, how it should function, what its priorities should be and how they will reach them.

3.5 Conclusions

There are many positive initiatives which have been undertaken in Paraguay to tackle trafficking. For example, the network of private organisations, public institutions and NGOs which has been formed to combat trafficking and commercial sexual exploitation in Ciudad del Este (Red de Protección y Defensa de la Niñez y Adolescentes - PRODENA) has been very successful in achieving a greater recognition of the problem, providing assistance to those affected and facilitating a significant rise in the number of cases being filed against traffickers.

A second project in the triple frontier works to improve international co-operation by creating a forum (Mesa de Operadores Jurídicos) which brings together professionals from the judiciaries of Argentina, Brazil and Paraguay to analyse and

improve the judicial framework in order to stop the trafficking and commercial sexual exploitation of children.

These projects, along with a greater interest in trafficking in the national media and from international institutions, has raised the profile of the issue and the Government has responded by establishing the trafficking roundtable, facilitating the repatriations of trafficked Paraguayans from Argentina and approaching the Inter-American Development Bank with a proposal that they fund a counter-trafficking project.

The IDB approved US\$150,000 for Paraguay to combat trafficking in December 2004. However, the Government nearly lost these funds because it did not provide an approved project and budget on how the money would be spent until nearly a year later. The funding was still at risk at the beginning of 2006 because the Government had not incorporated the funding into the National Budget and received Congressional approval for its allocation. This means the funds cannot be transferred and spent before September 2006 at the earliest.³⁵

Similar delays have been seen in a project to develop a manual to define the roles and responsibilities of different institutions in relation to trafficking, which was funded by the US government. A lack of technical capacity, a failure to prioritise the issue and departmental infighting and bureaucracy all seem to have played a role in these delays.

The Roundtable on trafficking provides a good forum for developing and implementing a long term response to trafficking. For a national strategy against trafficking in persons to succeed the participating institutions must be aware of their responsibilities, have specific targets to meet within set timeframes and be assigned adequate resources which allow them to do so.

One clear priority for the Government should be to amend current legislation so that Paraguay prohibits and punishes all forms of trafficking in persons, in line with the UN Protocol on trafficking.

³⁵ A further US\$ 400,000 for a second stage from the Japan Special Fund of the Bank has already been lost because the Government failed to approve a budget for the project by December 2005.

However, 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.³⁶ Paraguay is also consistently ranked among the 10 most corrupt countries in the world by Transparency International and a World Bank Institute survey of public opinion identified the judiciary and customs as the most corrupt in the country.³⁷ Distrust and fear must be removed from using the judicial process. Failure to do so will not only threaten the government's counter trafficking strategy, but also the protection of human rights more generally.

The institutions involved in combating trafficking 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. The need for training is not confined to law enforcement institutions. For example, the Director of the Hogar María Reine, the only public shelter to assist children who have been subjected to sexual abuse in Asunción, said in 2004 that "the shelter was for victims, not prostitutes."³⁸ Training must also address current perceptions and attitudes which prevent individuals from properly identifying trafficking cases and taking the appropriate action to assist them.

Each institution involved in counter-trafficking activities also needs to designate a contact person who will ensure that they comply with their responsibilities under the plan and that they forward information and cases to a central point.

CEAPRA and Luna Nueva provide specialised services to trafficked children and there is now one centre for trafficked women. However, none of these projects are funded from the national

budget, although in 2005 the government contributed, for the first time, some US\$15,000 to financing the services provided by CEAPRA. The State should commit to providing long-term financial support to these projects, which provide specialised assistance to trafficked people.

The Government needs to extend services beyond Asunción and Ciudad del Este. Local service provision via CODENIs and CODEMUs is inadequate as CODENIs only cover around half the country at present and CODEMUs are even less developed. Both are severely under resourced,³⁹ but with proper training and funding these local bodies could provide a national network of information and assistance. However, these organisations do not yet have the capacity to do this and their priorities are set at a national level and currently do not include trafficking.

The Government also needs to consider how it can meet the basic needs of socially marginalised communities who are living on or below the poverty line.⁴⁰

4. The commercial sexual exploitation of children

4.1 Child prostitution in Paraguay

Children make up nearly half of the population of 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% of some 2,700 prostitutes were under the age of 16.⁴¹

³⁶ 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.

³⁷ World Bank, *op.cit.*, page 15.

³⁸ Grupo Luna Nueva, *op. cit.*, page 141.

³⁹ CODEMUs get their budget from the Ministry for Women, but the Ministry's total budget is only 0.1 per cent of the National Budget. For more on CODENIs, see the chapter on *cridado* and child domestic work.

⁴⁰ Grupo Luna Nueva, *op. cit.*, page 41.

⁴¹ 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.

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.⁴²

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 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. The girls quickly drop out of school and their main options for earning money are either domestic work or prostitution.

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). Some researchers estimate that up to three out of every 10 children may have been initiated into commercial sexual exploitation by their own mothers.⁴³ However, it should be stressed that nearly 70 per cent of the children interviewed said they got involved in sex work through a friend or boyfriend rather than through their parents or through their own initiative.

Most children came from the outskirts of Ciudad del Este and the province of Caaguazú. Around 70 per cent were from large families (with between four and eight siblings) and 90 per cent lived with relations who were not their parents.⁴⁴

Clients generally contact the children on the street (46 per cent), by telephone (28 per cent) or through friends or colleagues (16 per cent). Over 40 per cent said US\$10 was the maximum they would charge and three quarters of those interviewed estimated that they saw between 60 and 120 clients a month. 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.⁴⁵

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.⁴⁶

Boys are also subjected to sexual exploitation and they are even more stigmatised and rejected by society than girls. No research has been done into the commercial sexual exploitation of boys to date and they receive no assistance from NGOs or the State.

⁴² Jose Gasper Britos/PREVER, *Explotación Sexual Comercial de Niñas y Adolescentes, Paraguay - Ciudad del Este*, ILO-IPEC, Asunción, June 2002, page 7.

⁴³ Jose Gasper Britos/PREVER, *op.cit.*, pages 18, 25, 26 and 47.

⁴⁴ Jose Gasper Britos/PREVER, *op.cit.*, page 46.

⁴⁵ Jose Gasper Britos/PREVER, *op.cit.*, pages 37-38 and 41.

⁴⁶ Jose Gasper Britos/PREVER, *op.cit.*, pages 24, 39, 40 and 29.

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.

Other forms of commercial sexual exploitation of children have also been reported, including child pornography. In one case, more than 100 children were photographed and concerns have been raised that girls are photographed and then later trafficked to individual clients in countries like Germany, Greece and Cyprus. In the Xiscatti case a photographer was taken to court, but could not be prosecuted because he had not broken any law.

This loophole in the legal framework was closed on 15 December 2005 when a law was approved which prohibits the use of children in pornography (Ley de Penalización de la Utilización de Niños, Niñas y Adolescentes en Pornografía). Amongst other things, the law prohibits and punishes the production, reproduction, promotion, possession and financing of child pornography. It also sets out stronger penalties for aggravating factors (eg if the child is under 15 or if a position of trust has been abused). The law also establishes an obligation on all people to report cases of child pornography to the appropriate authorities.

The UN Special Rapporteur also raised concern in his report regarding the accusations that were made in Pedro Juan Caballero that powerful individuals bought girls and took them to their haciendas.⁴⁷

4.2 The institutional response

The Children's Code (Código de la Niñez y Adolescencia) was approved in 2001 and established the National System of

Comprehensive Protection and Promotion for Children and Adolescents (Sistema Nacional de Protección Integral de la Niñez y Adolescencia). The Code also introduced offences that cover some forms of trafficking and sexual abuse of children, but the sanctions are very low and many of the individuals who have been prosecuted under these laws have just received fines. There is also a need to review sexual offences generally in order to ensure that they cover all forms of sexual exploitation (e.g. sex tourism) and that the penalties are commensurate with the crimes committed.

The Ministry for Children has responsibility for co-ordinating work to protect children's rights, including convoking the National Council for Children (Consejo Nacional de la Niñez y Adolescencia). The National Council is an inter-ministerial committee, with two NGO representatives, that meets twice a year to approve policy. National policy is then implemented at provincial and local level through the Departmental Councils (Consejos Departamentales) and the CONDENIs.

The Ministry has played a key role in developing national plans to combat both the sexual exploitation of children and child labour.⁴⁸ These plans are holistic in their approach and if fully implemented would have a major impact on their target areas.

The Ministry of Children is specifically aiming to: distribute the national plan against commercial sexual exploitation; open an office in the triple frontier; train key personnel on trafficking issues; and create networks in cities like Encarnación and Pedro Juan Caballero to prevent the commercial sexual exploitation of children and to provide assistance to children affected.

The last goal particularly reflects a desire to replicate the success of the ILO Programme for the Prevention and Elimination of Commercial Sexual Exploitation of Children on the Triple Frontier. This programme started in 2001 and brought together different institutions in Ciudad del Este, Puerto Iguazú and Foz de Iguazú. It also set up a tri-

⁴⁷ Juan Miguel Petit, UN Special Rapporteur on the sale of children, child prostitution and child pornography, *op. cit.*, page 8.

⁴⁸ 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.

national committee for cross border communication and an NGO, CEAPRA, to provide assistance to children who have been victims of sexual exploitation. As of October 2005, CEAPRA had been in contact with 382 children in commercial sexual exploitation, whose ages ranged between nine and 18.

These institutions have formed a network which has managed to get people to recognise that the problem exists and has successfully increased the number of cases being taken to court. The project includes training of key officials, producing guides and manuals, as well as awareness raising campaigns. As part of the programme, Fundación Esperanza trained 500 families so that they could start micro businesses and be able to support themselves without having to rely on income from prostitution.

4.3 Conclusions

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.⁴⁹ The Government needs to undertake action to counter this kind of behaviour as a matter of priority.

As with other forms of slavery, social exclusion also makes children more vulnerable to commercial sexual exploitation. Some 18 per cent of children involved in prostitution were illiterate, compared to the national average of just eight per cent, and only 55 per cent had

completed primary education. This reflects the fact that many poor families cannot sustain their children in school because of the hidden costs of education like transport, books, pens, etc. Nearly two thirds of children in prostitution said they would change jobs if they could earn money another way.⁵⁰

Another structural issue which the Government needs to address is the police response to commercial sexual exploitation of children. The police do not have any specialised personnel who are trained to investigate these cases 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.⁵¹

Police and other public officials are also considered to be involved in the sexual exploitation of children. Customs officials indicated that they did not interfere in the issue

because powerful people were involved and the ILO/IPEC research team concluded that if they had continued their investigations they would have had problems with the authorities. In this context, it is not surprising that the children affected distrust the authorities, with just one per cent having confidence in the Government.⁵²

The Government therefore needs not only to amend current legislation relating to the sexual exploitation of children, but also build confidence in its own institutions so that victims of these crimes feel confident to come forward to the authorities. This includes tackling corruption, removing political appointees, and providing officials with appropriate budgets and training.

⁴⁹ Jose Gasper Britos/PREVER, *op. cit.*, pages 3 and 39.

⁵⁰ Jose Gasper Britos/PREVER, *op. cit.*, page 39.

⁵¹ Jose Gasper Britos/PREVER, *op. cit.*, pages 47 and 43.

⁵² Jose Gasper Britos/PREVER, *op. cit.*, pages 47 and 43.

The National System of Comprehensive Protection and Promotion for Children and Adolescents and the National Plans for the eradication of child sexual exploitation and child labour provide the framework for addressing the issues raised above.

However, the National Plans 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 Ministry of Children, which has had four different Ministers between 2001 and 2005, also needs to be consolidated if it is going to deliver effective protection to children. One key aspect of this is establishing the authority of the Ministry throughout the country, including at the local level. At the end of 2005, only seven of the 17 national Departments had children's councils and only about half of the municipalities had CODENIs.

The Government should seek to build on what is already available and provide long term support to existing projects, which have been effective in integrating work with other institutions and providing professional and specialist assistance to children who have been subject to commercial sexual exploitation (e.g. CEAPRA and Luna Nueva).⁵³



above: Indigenous children from the Espinillo community

5. Criadazgo and child domestic workers

5.1 The scale and context of the problem

According to the 2000/01 Survey of Homes (Encuesta Integrada de Hogares), 670,137 children between the ages of 5-17 carry out some form of unpaid domestic work.⁵⁴ Many of these children would not be in exploitative conditions as they are simply assisting their parents with domestic tasks for a couple of hours a week. However, the Survey of Homes does not indicate how many of these children are doing domestic work in other people's homes or provide details regarding their conditions of work.

There are basically two types of child domestic work in Paraguay. The first involves children who are employed as domestics and receive some payment for the work they do, which would typically include cleaning the house, shopping, ironing, cooking, washing clothes and looking after smaller children. According to the Survey of Homes there are over 38,000 children between 5-17 who are employed in this way.⁵⁵

The second is the *criadazgo* system in which children live and work as domestics in the homes of other families, normally in cities, 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.⁵⁶

Employers do not consider that children in *criadazgo* are working, so it is generally not recorded when official statistics on child labour

⁵³ Luna Nueva's centre receives no state support and has had to close on two occasions because of lack of funds.

⁵⁴ Roberto Céspedes, *Seguimiento de Indicadores sobre la Niñez Trabajadora de Paraguay según las Encuestas de Hogares*, ILO-IPEC/UNICEF, Asunción, 2003, page 19.

⁵⁵ Roberto Céspedes, *op. cit.*, page 28.

⁵⁶ 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.

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.

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 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.⁵⁷ Given that adult domestic workers can legally be exploited in this way it is not surprising that the situation faced by many child domestic workers is analogous to slavery.

5.2 Child domestic work and slavery

When children are transported to another location for the purposes of exploitation this constitutes trafficking under the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women, 2000. The UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956 also considers that where a child is delivered to another person, whether for reward or not, with a view to the exploitation of that child then this is a practice akin to slavery.

On the basis of these definitions, 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 in a contemporary form of slavery. These children 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 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.⁵⁸

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).

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.⁵⁹

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.⁶⁰

⁵⁷ Line Bareiro, et. al., *Necesarias, invisibles, discriminadas. Las trabajadoras del servicio doméstico en el Paraguay*, ILO and CDE, Paraguay, 2005, pages 36-39.

⁵⁸ The research involved interviews with 420 child domestic workers, 118 families of the domestic workers and 34 employers. Clyde Soto, *op. cit.*, page 16

⁵⁹ Grupo Luna Nueva, *op. cit.*, page 77.

⁶⁰ Clyde Soto, *op. cit.*, page 6.

5.3 Why do families send their children into *criadazgo*?

Of the families interviewed, more than 50 per cent were living on an income equivalent to half the minimum wage or less. The families also had a high rate of illiteracy with 23 per cent of parents unable to read and write.⁶¹

While a lack of money, food and work are key problems identified by families to explain why they send their children away to be domestics, poverty is not in itself a sufficient explanation. Family structures (including absent fathers, a large number of children, illness, violence in the family, etc.) also play a role, as do pull factors such as a desire to help the family, to get an education and to have a better standard of living.

While the vast majority of child domestics in the CDE survey did attend school, the amount of work they did is likely to impede their progress as they are left with little or no time for relaxing. Around 45 per cent of children said they worked every day with some 26 per cent saying they has less than two hours rest each day.⁶²

The intervention of a third party who offers to take a child or place them with another family also appears to be pivotal in the family's decision to send their child away. In 40 per cent of cases, parents said their children started working as a domestic because a woman or a family offered to take them. In a further 25 per cent of cases a relation or someone recommended by friends offered to take them.⁶³

In many cases the third party will be a respected member of the community (e.g. teachers, nuns, local officials) or a family member. These people could be acting with good intentions or they may be intentionally deceiving the family in order to profit from the exploitation of the child.

5.4 Current initiatives

There are many initiatives in Paraguay which are aimed at trying to address the continuing demand for cheap child domestic workers and the high degree of tolerance in society for the type of exploitation and abuse to which these children are submitted. For example, 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 or *criadazgo*.⁶⁴

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 49 per cent of people interviewed thought that giving children to others for *criadazgo* was bad. Some 46 per cent of those interviewed thought the practice was good with the percentage reaching nearly 60 per cent in the more rural areas of the country.⁶⁵

The NGO Global Infancia and the ILO have been working on raising awareness about the negative aspects of child domestic work and *criadazgo* among target groups. During 2003 and 2004, adverts were placed on television and talks and workshops were carried out all over the country reaching more than 2,000 people, including officials from the Ministry for Education and Culture and journalists.

⁶¹ Clyde Soto, *op. cit.*, pages 25-30.

⁶² Clyde Soto, *op. cit.*, pages 48-49.

⁶³ Clyde Soto, *op. cit.*, page 36.

⁶⁴ 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).

⁶⁵ Verónica López, *et al.*, *Trabajo Doméstico remunerado en Paraguay*, ILO, Asunción, 2005, page 199.

These initiatives seemed to have raised media interest in the issue as reflected in an increase in coverage from 2002 to 2003.⁶⁶

Global Infancia have particularly focused on teachers as a target group that can both discourage *criadazgo* and provide support to pupils who are domestic workers. This initiative is being supported by the Ministry of Education and Culture, which is changing the registration system at schools in order to try and help teachers identify those children who are working so that they can assist them and talk to their families.

Such support will help ensure that children do not drop out of school and provides a protection mechanism for children who can tell their teachers if they are being exploited or abused. For example, in June 2005, a teacher reported an official from the Ministry for Children for mistreating a pupil who was working in her house as a domestic.⁶⁷

Global Infancia is also working to build the capacity of the CODENIs and getting them to work together with schools. The CODENIs are financed at a municipal level to provide free services to protect and promote children's rights, including legal support services.

However, only about 50 per cent of municipalities have CODENIs and many of these lack even the most basic resources in order to perform their function, 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.⁶⁸ Consequently, in practice, some CODENIs are just one person with an inadequate budget. The individual may also be a political appointment without the necessary

skills or qualifications for the job.

The awareness raising and capacity building programmes being run by Global Infancia with CODENIs and schools are key to the long term solution because these institutions offer local services, operate nationally and are supported under a national budget as opposed to being temporarily funded by an international agency. This strategy appears to be working as CODENIs are becoming more professional and more popular, with many ordinary Paraguayan now actively wanting CODENIs to be set up in the areas where they live. One CODENI has even criticised the inactivity of police, lawyers and judges in Encarnación for not acting on a complaint it made.

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.

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

6. Child soldiers

Military service is obligatory in Paraguay for men over the age of 18.⁶⁹ 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 (see case study).

⁶⁶ In relation to stories dealing with child labour, the percentage that referred to child domestic work increased from eight per cent in 2002 to 23 per cent in 2003 (the media analysed was ABC, Última Hora and Popular). See María Silva Calvo, *Con ojos de Niña: una mirada a la prensa Paraguaya. Análisis cuantitativo y cualitativo de prensa paraguaya*, ILO, Asunción, 2004, pages 51-53.

⁶⁷ CDIA press release, June 2005. 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 59.

⁶⁸ Juan Miguel Petit, UN Special Rapporteur on the sale of children, child prostitution and child pornography, *op. cit.*, page 18.

⁶⁹ Some groups are exempt from this, like conscientious objectors, indigenous people and catholic priests.

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.⁷⁰

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 between 1989 and 2005.⁷¹ 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.

Child soldier case study

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 to 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.⁷²

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⁷⁰ *Coordinadora por los Derechos de la Infancia y la Adolescencia*, 1999. Quoted in CODEHUPY, *op. cit.*, page 61.

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