11 February 2013

Anti-Slavery International and Asociación Grupo de Trabajo Redes thematic report on child domestic work in Peru


1. INTRODUCTION

Anti-Slavery International, in consultative status with ECOSOC since 1950, was set up in 1839 and is the oldest international human rights organisation in the world. Today Anti-Slavery International works to eradicate all contemporary forms of slavery, including bonded labour, forced labour, trafficking in human beings, descent based slavery, the worst forms of child labour, and forced marriage.

Globally domestic workers are particularly vulnerable to abuse and exploitation, including contemporary forms of slavery, due to the unique nature of work inside a private home, combined with a lack of sufficient protection in law. Due to their young age, isolation and separation from their parents, children domestic workers are particularly vulnerable. Anti-Slavery International’s child domestic work programme is currently delivered in six countries, in Peru through a partnership with Asociación Grupo de Trabajo Redes (AGTR).

Asociación Grupo de Trabajo Redes (AGTR), was established in 1989. Its team is formed by former and current domestic workers, professionals, students and volunteers. Its objective is to promote domestic work as a dignified occupation, to protect children and adult women that suffer exploitation in this job, and to prevent children under legal age to enter in this labour. AGTR empowers them to assert and claim their rights with allies from the State and civil society.

This submission to the UN Human Rights Committee (hereafter the Committee), provides supplementary information on child domestic labour in Peru which is relevant to the following two paragraphs of the List of issues to be taken up in connection with the consideration of the fifth periodic report of Peru (CCPR/C/PER/Q/5):

**Elimination of slavery, servitude and forced labour and freedom of movement (art. 8)**

15. Please describe the actions taken, and their outcomes, to prevent and punish the use of forced labour and debt servitude in areas such as the timber industry, gold mining and domestic service.

**Protection of children (art. 24)**

23. Please describe the steps taken to prevent children from being subjected to the worst forms of child labour and economic exploitation, including in mines and in the handling of toxic materials, and to provide them with the appropriate care, including
their placement in properly equipped children’s homes to ensure their social rehabilitation…”

Many child domestic workers in Peru are subjected to work which is hazardous and harmful to their health, safety and development. The vast majority start work below the age of 14, with some as young as seven. Child domestic workers report long working hours, and a lack of rest days and vacation time. They lack the opportunity to play and make friends, and suffer from psycho-social harm as a result of their work demands and responsibilities. Child domestic workers struggle to access a good standard of education. They are poorly paid. Some only receive payment in kind (such as clothes and food) and some are not paid at all. Child domestic workers are vulnerable to physical, psychological and sometimes sexual abuse. Many child domestic workers are in conditions of forced labour and many have been trafficked from rural areas. Much child domestic work therefore falls under the worst forms of child labour as set out in article 3 of ILO Convention No. 182. These abuses also represent violations of their rights under article 8 and article 24 of the International Covenant on Civil and Political Rights (ICCPR).

The government of Peru is committed to tackling child domestic labour and has put in place important legislative and policy measures. However, there are weaknesses in the law and its enforcement that need to be resolved, alongside the quality of educational provision for working children.

2. CHILD DOMESTIC LABOUR IN PERU

Child domestic workers in Peru, the majority of whom are girls, work in private homes, hidden from public view. They undertake work including caring for young children and the elderly, alongside cooking, cleaning, and washing. Given the nature of child domestic work, it is difficult to obtain accurate numbers. In Peru, estimates of the number of child domestic workers range between 26,0002 and 600,0003. This highlights an important definitional issue in Peru about who is considered a child domestic worker. Due to the widespread belief that domestic work is formative for children, especially girls, many child domestic workers are not recognised as such either by their family or the State, and nor do they identify themselves as such.

Age of children involved
A study published in 2010 by Asociación Grupo de Trabajo Redes (AGTR), in collaboration with Anti-Slavery International, involved 199 child domestic workers in the San Juan de Miraflores district of Lima. The age of entry into domestic work ranged between 7 and 17 years old. A majority started work between the ages of 11 and 14. Most significantly, 72% of children surveyed started work younger than the legal minimum age for domestic work of 14

---

1 (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.
2 Encuesta Nacional sobre Trabajo Infantil, realizada por el Instituto Nacional de Estadística e Información, Lima – Perú. 2007
3 Asociación Grupo de Trabajo Redes (AGTR) and Walter Alarcón
(although under exceptional circumstances entry at 12 years old is permitted). Of the 2,497 child domestic workers accessing AGTR services between 2009 and 2011, 10% (242 children) were aged 13 or younger.

**Exposure to harmful and hazardous working conditions**

The UN Special Rapporteur on Contemporary Forms of Slavery, Ms Gulnara Shahinian stated that she was “deeply concerned over the working conditions of child domestic workers leading to them being in domestic servitude, which she considers to be a contemporary form of slavery” following her visit to Peru in May 2011.

Child domestic workers may have to use electrical equipment, machinery, chemicals and other hazardous materials, often without training or protection. In Peru, they commonly use an open wood fire to do cooking. They are expected to perform skilled tasks such as childcare or caring for the elderly with minimum training. Child domestic workers struggle with constant demands and responsibilities. Twenty four percent of female child domestic workers aged between 14 and 17 interviewed in AGTR’s 2010 study said that they felt stress every day.

Child domestic work is characterised by long working hours, often connected with childcare responsibilities. An average working day of 9 – 10 hours is frequently cited by child domestic workers.

The situation for child domestic workers who live-in with their employers (called ‘cama adentro’), usually those who migrate from rural areas to the cities, many of whom are trafficked, is particularly grave. Child domestic workers surveyed by the AGTR who lived with their employers reported that they would work from the moment that they got up at around 7am until they go to bed at around 10pm. They can also be “on call” for 24 hours a day. Living conditions for child domestic workers who live with their employer can be poor. Thirty seven per cent of participants in AGTR’s 2010 study had to share a room with a member of the employer’s family.

Under the Domestic Workers Act, all domestic workers are entitled to one day off a week and 15 days vacation time per year. However, child domestic workers who live with their employers frequently report a lack of rest days and vacation time. Some are often not allowed to leave the house, usually to ensure that the domestic worker remains ‘on call’. Fifteen per cent of participants in the AGTR 2010 study said that they were almost never able to visit their parents.

Child domestic workers can be extremely isolated. Employers control their ability to stay in contact with family or friends and can reduce opportunities for contact and discourage communication. These factors make child domestic workers highly vulnerable to forced

---

4 Children ages 12 to 14 may perform certain jobs, subject to restrictions, only if they obtain legal permission from the Ministry of Labour and Employment Promotion (Ministerio de Trabajo y Promoción del Empleo, MTPE) and can certify that they are attending school. U.S. Department of State, “Peru,” in *Country Reports on Human Rights Practices- 2004*, Section 6d, Washington, D.C., February 28, 2005; available from http://www.state.gov/g/drl/rls/hrrpt/2004/41771.htm.
5 Report of the UN Special Rapporteur on Contemporary forms of Slavery, Gulnara Shahinian, Mission to Peru, (AVHRC/18/30/Add.2), Geneva, 15 August 2011, paragraph 50
6 Asociación Grupo de Trabajo Redes (AGTR), *Trabajo Infantil Domestico: Percepciones de ninas, ninos y adolescets*, Peru, 2010, p52
8 *Ibid.*, p37
labour and abuse. Some child domestic workers report being subjected to physical forms of violence such as being hit or slapped by their employers, and to psychological forms of violence such as shouting, scolding and insults. Child domestic workers, particularly those that live with their employers, can be vulnerable to sexual abuse.

**Work contracts and payment**

The law requires either a verbal or a written contract between an employer and a domestic worker. In the vast majority of cases, verbal contracts are the norm. When agreements are verbal, domestic workers find it hard to seek redress when abuses occur.

Child domestic workers are poorly paid. Some do not receive monetary payment but rather payment in kind, such as clothes and food. Some do not receive any payment at all. Of the child domestic workers who participated in AGTR’s 2010 study, 87% received some form of payment and 13% were not paid at all. Of those who did receive payment, 81% were paid money and 19% were paid ‘in kind’. Issues of pay are linked to the notion of domestic work as being formative for a child, and where some child domestic workers do not consider themselves as ‘working’ but rather ‘helping’ and do not question the lack of payment or being paid ‘in kind’.

**Impact on access to education**

Child domestic work often negatively impacts on a child’s access to education. Some child domestic workers, particularly those who ‘live-in’, may not be permitted time off to attend school at least during their first years with an employer. Many child domestic workers who do attend school experience difficulties due to the long working hours and requirements of their job. Many report that they struggle to concentrate, fall behind with their homework and have to repeat grades or even drop out. Sixty two percent of child domestic workers participating in AGTR’s 2010 study had to repeat a grade three times, compared to 23% of children working in a sector other than domestic work and 15% of non-working children.

3. **THE LEGAL AND POLICY FRAMEWORK**

The government of Peru is committed to tackling child domestic labour and has put in place important legislative and policy measures.

The Law governing domestic work is the Domestic Workers’ Act 2003, (*Ley 27986, Ley de los Trabajadores del Hogar*) and its regulation (*Reglamento de la Ley de los Trabajadores del Hogar – Decreto Supremo No. 015-2003-TR*). The Act stipulates certain rights and benefits for domestic workers such as days off on all public holidays, 15 days paid vacation a year and a half-monthly wage salary bonus in July and December, and half-monthly wage salary after a year work. The Act specifies that minimum age provisions pertaining to domestic work are those contained in the Code of Childhood and Adolescence (*el Código del Niño y el Adolescente*), Law 25571. The Code provides that working hours for children between the ages of 15 and 17 must be no more than six hours daily and must be under 36 hours per week, and working hours for children who are 14 years old must be no more than 4 hours daily and must be under 24 hours per week. The minimum age for child domestic

---

10 AGTR, *Trabajo Infantil Domestico: Percepciones de ninas, ninos y adolescentes*, op.cit, pp34-35
11 Report of the UN Special Rapporteur on Contemporary forms of Slavery, Gulnara Shahinian, Mission to Peru, op.cit, paragraph 49
12 AGTR, *Trabajo Infantil Domestico: Percepciones de ninas, ninos y adolescentes*, op.cit, p26
workers is 14 years old, but exceptionally 12 years old.\textsuperscript{13}

The first National Plan for the Prevention and the Eradication of Child Labour 2005-2010 was established by the Committee for the Prevention and Eradication of Child Labour (CPETI). Child domestic work is included as one of four priorities in the second National Plan for the Prevention and the Eradication of Child Labour 2011-2016.

The government has also sought to address the particular education needs of children who are combining work with study. The Alternative Basic Education programme (\textit{Educación Básica Alternativa} – EBA) is taught at public education institutions during night classes (6-10pm). The Regular Basic Education programme (\textit{Educación Básica Regular}) is taught at public education institutions with students having the choice between morning classes (8am-1pm) or afternoon classes (1pm-6pm).

In a speech on the occasion of Independence Day, President Humala stated that he will eradicate child labour by the end of his administration in July 2016.

In the recent second cycle Universal Periodic Review of Peru (14\textsuperscript{th} session, November 2012), four recommendations relating to domestic work and child domestic work enjoyed the support of the Government:\textsuperscript{14}

- 116.1. Consider ratifying the ILO Convention No. 189 concerning Decent Work for Domestic Workers (The Philippines);
- 116.45. Implement appropriate, efficient measures to protect children from economic exploitation, in particular, the worst forms of child labour in line with the ILO Conventions No. 182 and No. 138, focusing especially on the mining sector as well as child domestic workers (Slovakia);
- 116.77. Ensure the effective implementation of national law and policy relevant to domestic workers, including the Domestic Workers Act (Kyrgyzstan);
- 116.104. Ensure that the educational system is accessible and responds to the specific needs of child workers, including child domestic workers (Honduras);

\section*{4. OBSTACLES TO THE ERADICATION OF ABUSE AND EXPLOITATION OF CHILD DOMESTIC WORKERS}

\textit{Gaps in law and practice}

The Domestic Workers Act 2003 is not enforced and most domestic workers do not receive their entitled remuneration, breaks, vacation, social security and bonuses. Very few domestic workers are aware of their rights and few employers are concerned about their responsibilities under the law. The Domestic Workers’ Act itself is discriminatory in that it affords domestic workers lower protections than other workers. Domestic workers are entitled to only half of the benefits to which other workers are normally entitled with regard to vacations, compensation for length of service and bonuses.\textsuperscript{15}

\textsuperscript{13} Children ages 12 to 14 may perform certain jobs, subject to restrictions, only if they obtain legal permission from the Ministry of Labour and Employment Promotion (Ministerio de Trabajo y Promoción del Empleo, MTPE) and can certify that they are attending school. U.S. Department of State, “Peru,” in \textit{Country Reports on Human Rights Practices- 2004}, Section 6d, Washington, D.C., February 28, 2005; available from http://www.state.gov/g/drl/rls/hrrpt/2004/41771.htm.


\textsuperscript{15} Report of the UN Special Rapporteur on Contemporary forms of Slavery, Gulnara Shahinian, Mission to Peru, op.cit, paragraph 49
The Code of Childhood and Adolescence, which specifies the maximum number of daily working hours, the minimum age for child domestic work, and conditions under which children under the age of 14 can work, is widely ignored. The provisions are not supervised or enforced, and child domestic workers continue to enter into work much younger than the minimum age and work much longer hours. In practice, very few working children under the age of 14 have obtained the required authorization. As these children are not recognised as workers by the law, they are excluded from any labour protections.

The UN Special Rapporteur on Slavery has expressed concern that CPETI, which implemented the previous National Action Plan on Child Labour (2005-2010) and will implement the current Plan, does not have any permanent staff or dedicated funds to carry out the plan, and lacks sufficient authority.\(^\text{16}\)

Access to education and public services
While the Government has sought to address the specific needs of working children, child domestic workers nonetheless experience barriers in accessing a good quality education. The majority of child domestic workers study under the Alternative Basic Education programme. The quality of education provided in the Alternative Basic Education programme is very poor. It is difficult for those who study under it to pursue further education, because it only goes up to level four of secondary education whereas it is compulsory to have completed level five to enter University. The teachers do not receive the same training as teachers of the Regular Basic Education programme and often have low expectations for their students, in part conscious of their obligations outside of the classroom.\(^\text{17}\) It is also difficult in practice for child domestic workers to benefit from the Alternative Basic Education programme. In some cases, especially for live-in child domestic workers, employers prevent them from attending. In other cases, the child’s long working hours leave them tired and with little time for homework.

Child domestic workers experience barriers to other using public services, particularly health services, because they are not open on their one weekly day off on Sunday.

Addressing the causes of child domestic work
There are many factors which push and pull children into domestic labour, including economic factors and the need to provide some support to their family and the belief that it will enable them to pursue an education. In addition, in Peruvian culture, and particularly by parents, child domestic labour is perceived as training and therefore beneficial, especially for girls. As noted by the UN Special Rapporteur on Slavery, no social policy has been developed to address the root causes of child labour.\(^\text{18}\)

5. CONCLUSIONS AND RECOMMENDATIONS TO THE GOVERNMENT ON CHILD DOMESTIC LABOUR

Despite apparent efforts by the Government towards tackling child domestic labour, many child domestic workers are subjected to work which is hazardous and harmful to their health, safety and development. Many child domestic workers are subjected to forced labour and

\(^{16}\) Report of the UN Special Rapporteur on Contemporary forms of Slavery, Gulnara Shahinian, Mission to Peru, op.cit, paragraph 67

\(^{17}\) AGTR, Trabajo Infantil Domestico: Percepciones de ninas, ninos y adolescentes, op.cit, p69

\(^{18}\) Report of the UN Special Rapporteur on Contemporary forms of Slavery, Gulnara Shahinian, Mission to Peru, op.cit, paragraph 69
many have been trafficked. These practices represent a violation of their rights under articles 8 and 24 of the ICCPR. There are weakness in law and its enforcement that need to be resolved, alongside the educational provision for working children.

The Government of Peru is therefore urged to:

- Identify child domestic workers who are in situations of abuse, exploitation and forced labour, remove them from harm, and ensure that they receive appropriate rehabilitation and reintegration assistance and have access to legal redress.
- Ensure the effective implementation of national law and policy relevant to domestic workers, including the Domestic Workers Act, the Code of Childhood and Adolescence and the 2011-2016 National Action Plan on Child Labour. The Government should allocate the necessary financial and staff resources required for the implementation and ensure proper coordination between the institutions and agencies involved in delivering these.
- Ensure domestic workers have the same rights under the law as workers in other sectors. The Domestic Workers Act 2003 should be amended to remove provisions which afford domestic workers lower protections than other workers.
- Raise the minimum age of entry to work to 15, with no exceptions.
- Sign and ratify ILO Convention No189 on Decent Work for Domestic Workers.
- Ensure that the education system is accessible for, and responsive to, the specific needs of working children including child domestic workers.
- Provide and promote access to public services by child domestic workers, particularly health services, taking into account their weekly day off on Sunday.
- Raise public awareness about the risks associated with child domestic work. Particularly, that child labour prevents children from taking better opportunities for their lives.
- Ensure that the perspective of child domestic workers is taken into account when determining policies that affect them.