

## End of mission statement of Urmila Bhoola, Special Rapporteur on contemporary forms of slavery, including its causes and consequences following her visit to Paraguay between 17-24 July 2017

[Spanish](#)

24 July 2017

### The mission of the Special Rapporteur

The Special Rapporteur on contemporary forms of slavery, including its causes and consequences Ms. Urmila Bhoola visited Paraguay between 17 and 24 July 2017. During this visit she met with Government officials from a broad range of state entities including the Ministry of Foreign Affairs, the Ministry of Labour Employment and Social Security, the Secretariat for Children and Adolescents, the Public Ministry, the Ministry of Justice, the Ministry of Education and Science, the human rights ombudsman, the Ministry of the Public Defender, the national congress, the Supreme Court, the Institute of the Indigenous and the National Commission on the Eradication of child labour (CONAETI). She also visited relevant programme sites, including a centre that receives calls from child victims of exploitation and a centre that was part of the Abrazo programme, designed to protect the rights of children in order to reduce their vulnerability to exploitation and other human rights abuses. She also met with the UN Resident Coordinator, the UN Country Team, the OHCHR Paraguay Office and a range of non-governmental organisations, trade unions, indigenous organisations and private sector stakeholders. She held these meetings and visits in the capital Asuncion, as well as in Filidelfia and Neuland in the Chaco region.

She extends her thanks to the Government of Paraguay for inviting her to visit the country and for officials from different state entities for engaging in a fruitful and meaningful dialogue. She would also like to thank OHCHR Paraguay for comprehensive assistance to the planning and implementation of her visit and the UNRC and UNCT for their inputs and support. Finally the Special Rapporteur would also like to express her sincere appreciation to all civil society organisations, trade unions, indigenous organisations, business associations and individuals who took the time to meet and share their experiences with her.

The Special Rapporteur will present her full report and recommendations to the Government of Paraguay and other relevant stakeholders to the 39th session of the Human Rights Council in September 2018. Ahead of this, the following end of mission statement presents the Special Rapporteur's initial assessment of the situation relating to contemporary forms of slavery in Paraguay and suggests key recommendations to the Government and other stakeholders.

### General country situation

Paraguay is an upper middle-income, landlocked country in the southern cone of Latin America with a population of 7 million. It has achieved sustained growth in GDP over the last 5 years but continues to experience poverty and inequality. It is a country with a large number of young people, with around 45% of the population being aged between 0 and 25<sup>1</sup>.

The Special Rapporteur gained the impression from information received during her mission that Paraguay is facing a number of complex and crosscutting challenges, which create vulnerability of individuals to contemporary forms of slavery, as well as the Government's capacity to respond to such phenomena. Such cross-cutting challenges include resource constraints and weaknesses in government institutions, including difficulties in providing universal coverage of services across the country, generalised patterns of persistent discrimination, including based upon gender, age and minority status, a weakening of the social fabric and periods of social instability.

### **Positive developments**

The Special Rapporteur noted a number of positive elements and developments in relation to the Government's response to contemporary forms of slavery achieved in spite of these crosscutting challenges.

### ***International legal framework***

The Special Rapporteur noted that the Government of Paraguay has ratified the majority of the core legal standards that provide protection from contemporary forms of slavery, its causes and consequences. These include the 1926 Slavery Convention and 1956 Supplementary Convention, the core human rights instruments and the Palermo Protocol. The government has also ratified the core ILO conventions relating to forced labour, child labour and its worst forms, as well as the domestic work convention, C189,

The Special Rapporteur also noted the development by the Government and OHCHR Paraguay of SIMORE, a comprehensive system for monitoring country level implementation of the recommendations of different human rights mechanisms to monitor compliance with Paraguay's human rights commitments applicable under the international legal framework.

### ***Regional measures***

The Special Rapporteur noted that Paraguay has also ratified the key inter-American institutions, including the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights and the Protocol of San Salvador. She also received information about Paraguay's role in initiatives taken by the Common Market of the Southern Cone (MERCOSUR) to tackle trafficking and related labour exploitation.

### ***National legal framework***

In general the Special Rapporteur perceived that Paraguay has in place a good legal framework to combat forced labour, bonded labour, child labour and labour exploitation in slavery-like conditions. There are some gaps in the legal framework and significant enforcement gaps, which are discussed in the issues of concern section below. Most importantly slavery is prohibited in the 1992 Constitution and slavery and forced labour are penalised in the Criminal law. In 2015 child domestic work was prohibited in the Law No. 5407 on Domestic Work, which also increased the minimum wage for domestic work. Domestic work for children in the practice of *criadazgo* is also prohibited in the list of hazardous work for children in Executive Decree 4951. Act No. 4788/12 the Comprehensive Act to Combat Trafficking in Persons was passed in 2012 and has led to instances of *criadazgo* being prosecuted as internal trafficking offences although there are reportedly no convictions as yet. Other relevant laws and provisions include the Child and Adolescence Code, law no 1.680/01, which is the main piece of legislation on child rights and the 1993 labour code, which stipulates a range of labour rights for Paraguayan citizens.

### ***Institutional and policy frameworks***

The Special Rapporteur also received information about Paraguay's institutional and policy framework relevant to providing protection from worst forms of child labour, forced labour, domestic servitude and extreme forms of labour exploitation that could result in slavery. Various multi-sectoral coordination bodies have been created to address these issues, including CONAETI, the institutional roundtable on child labour, as well as the National Commission on Forced Labour. She also commends the Government on the creation of a separate Ministry of Labour, Employment and Social Security, which has partnered with the ILO, to increase the capacity of the labour inspectorate and decentralise the services provided by the Ministry. She also recognises the Government's efforts to develop its institutional capacity to deal with women's rights and gender and recognises the work of the Ministry of Women in ensuring that the mainstreaming of equal opportunities for women across the Government. She also received multiple reports about the positive impact of the conditional cash transfer based *Tukuy por siempre* programme

reports about the positive impact of the conditional cash transfer based *Ilekopora* programme.

The Special Rapporteur was also impressed by the work of the Secretariat on Children and Adolescents to build a comprehensive national child protection system, including the creation of a call centre to receive complaints relating to the violations of children's rights, the *Abrazo* social support programmes, municipal level coordination and the multi-disciplinary CONDENI units that respond to reports of child rights violations, including those relating to contemporary forms of slavery.

The Special Rapporteur also received information about a number of different policies, including the 2016-2020 National Strategy on Prevention of Forced Labour, the National Development Plan and the National Human Rights Plan, all of which contribute to a policy framework to prevent contemporary forms of slavery, and to address poverty and economic exclusion, as the root causes of extreme labour exploitation in the informal sector.

### ***Changes in social attitudes***

Another positive development that the Special Rapporteur received information about from a number of stakeholders was a perceived shift in social and cultural attitudes which reflects a greater awareness of labour exploitation and a greater willingness to denounce such practices, especially when they impact on children, such as *criadazgo* and forced begging.

### ***Improved compliance with labour standards and decreases in exploitation***

A number of stakeholders that met with the Special Rapporteur both in the capital and the Chaco region stated that recent years had seen improvements in compliance with labour standards and decreases in the prevalence of exploitation. For example when meeting with indigenous stakeholders in the Chaco region, they said that international attention on labour practices in co-operatives and ranches had improved compliance with national law. Stakeholders who the Special Rapporteur met with in the capital discussed reductions in the number of children subjected to *criadazgo* and the worst forms of child labour.

### ***Efforts to implement the sustainable development goals***

The Special Rapporteur received information from stakeholders about measures taken by the Government of Paraguay, in partnership with the UNCT, to implement the sustainable development goals. These include the setting up of a national commission on their implementation, led by the Ministry of Foreign Affairs, work sensitising local governments on the sustainable development goals and establishment of a country strategy. She encourages the Government and UNCT to ensure that achievement of target 8.7 to "take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms" is integrated into these efforts as a core part of the 2030 agenda.

### **Issues of concern**

During her visit, the Special Rapporteur received information from multiple stakeholders about a number of forms of exploitation, which she believes constitute contemporary forms of slavery or place people at risk of related victimisation and exploitation. These issues of concern are discussed below.

### ***Decent work deficits***

Many stakeholders presented information to the Special Rapporteur, which suggests that there are significant decent work deficits within Paraguay and a high level of informality in the economy. As will be discussed in the forthcoming report of the Special Rapporteur to the 72nd session of the General Assembly, the availability of decent work, and full and productive employment, provides powerful protection against contemporary forms of slavery. Decent work can alleviate poverty and provide security for people allowing them to meet basic and other needs. Decent work also creates conditions under which workers can unionise and protect themselves and others against contemporary forms of slavery and other human rights abuses. Therefore the decent work deficits that reportedly exist in Paraguay are a concern to the Special Rapporteur because they create significant vulnerability to extreme forms of labour exploitation.

Whilst the unemployment rate was reported to be low in Paraguay at 7%, the number of workers involved in the informal sector of the economy, was reported to be 70% with most of these workers estimated to be engaged in the labour force in this way<sup>2</sup>. Workers within the informal economy often experience a high degree of precarity, lack social security and tend to be in sectors that are not

experience a high degree of precariousness, lack social security and tend to be in sectors that are not fully covered by labour laws making them highly vulnerable to exploitation, including contemporary forms of slavery. Women are often more likely to be working within the informal sector and thus can experience heightened vulnerability. Other factors that reportedly contribute to the lack of decent work opportunities in Paraguay include a low minimum wage at around \$400/month<sup>3</sup>, the lack of universal compliance with minimum wage laws, a lack of capacity amongst the labour inspectorate to enforce provisions within the Labour Code and an economic development regime that has foreign investment at its forefront rather than labour rights of citizens.

### ***Criadazgo***

The Special Rapporteur received multiple reports of the phenomenon of *criadazgo* in Paraguay. *Criadazgo* is not defined or criminalised in Paraguayan law and reports received by the Special Rapporteur suggest that there are different manifestations of the practice, as well as debate about what constitutes the phenomenon. Broadly *criadazgo* refers to the practice whereby girls from poor, and often rural, households are sent to live with other families, ostensibly to secure access to food and an education. Once in the household, the child undertakes domestic work for the receiving families, which is normally not remunerated. According to reports presented to the Special Rapporteur, there are 46,933 incidences of *criadazgo*<sup>4</sup> in Paraguay, and although this was said to represent a significant reduction in the number of the children impacted, it is still high. The Special Rapporteur believes that in many incidences of *criadazgo* constitute contemporary forms of slavery and is concerned about the reported vulnerability of children, many of which are girls, to violence and abuse. She was shocked to learn of cases of extreme physical abuse of children by the families for which they were working. A case of the abuse of a child in a situation of *criadazgo* were also taken to the International American Commission on Human Rights (IACHR), resulting in precautionary measures being issued to the state of Paraguay.

The Special Rapporteur perceives there to be a significant legal protection gap in relation to *criadazgo*, mainly because it is not defined in law with related penal and civil penalties despite recommendations made by the Committee on the Rights of the Child to this effect in 2010<sup>5</sup>. Whilst domestic work is banned for children under 18 in the 2015 law on domestic work, this doesn't fully address the specificities of *criadazgo* as a non-remunerated form of labour. Furthermore the Special Rapporteur received reports suggesting that the prohibition of child domestic work is not effectively enforced.

The Special Rapporteur is aware of incidences of *criadazgo* being prosecuted under the 2012 anti-trafficking law as a form of internal trafficking. Whilst this is a positive development, the Special Rapporteur is concerned that the protection provided by the 2012 law would not extend to cases whereby the child was not forcibly moved. She reminds the Government of their obligation under international law to criminalise all forms of slavery and slavery-like practices as standalone offenses separate to the phenomenon of trafficking.

The Special Rapporteur is aware of attempts to define and criminalise *criadazgo* that are currently before the legislature and urges the Government of Paraguay to accelerate efforts to achieve this. Within such efforts, the Government should take care to focus on the punishment of those who seek to profit from the difficult situations faced by vulnerable families and consider carefully the deeply challenging socio-economic situations of parents who facilitate the exploitation of their children.

Alongside closing this legal protection gap, the Government of Paraguay should address the social and economic root causes of *criadazgo*. Extreme poverty and a lack of economic alternatives for parents reportedly often influence their decision to allow their children to face potential exploitation. Furthermore the continued social and cultural acceptance of the phenomenon amongst some, despite progress in this area, contributes to its continuation. The Government of Paraguay should therefore take steps to further develop social development assistance, such as expanding the resources and coverage of the Abrazo and Tekopora programmes, as well as conducting awareness raising and sensitisation campaigns to change harmful social and cultural attitudes on *criadazgo*.

### ***Other forms of slavery and slavery-like practices impacting children***

*Criadazgo* is not the only form of contemporary slavery impacting children that the Special Rapporteur received reports of whilst visiting Paraguay. She also received information about children being victim to other situations of slavery and slavery-like practices, including the worst forms of child labour.

According to this information, there are incidences of children being forced to beg in the streets to earn money for their families. This is recognised by the ILO as one of the worst forms of children and is perceived by the Special Rapporteur to be a slavery-like practice. It is reported that the families of

children rather than criminal syndicates that tend to facilitate such exploitation of children due to their extreme poverty. The Government of Paraguay should expand steps to address the root causes of this phenomenon and sensitise families and the general public about the rights of children to be free from such forms of exploitation.

The Special Rapporteur is also concerned about reports that children are subjected to child labour, including the worst forms of child labour, in a number of sectors within Paraguay. This can reportedly include instances where children are not employed directly by businesses but accompany their parents to work due to a lack of access to education or childcare. She reminds the Government of Paraguay and other stakeholders, including private sector actors, of their obligations under international standards and the sustainable development goals to take all steps to eliminate all forms of child labour.

### ***Forced and bonded labour***

During her visit, the Special Rapporteur received many reports of forced and bonded labour in the Chaco region of Paraguay. According to this information, indigenous peoples living in the Chaco region are forced into working in deeply exploitative conditions. The Chaco region accounts for 60% of the Paraguayan territory but only 3% of the population as many families were historically displaced as a result of loss of land or have migrated to urban areas to seek economic opportunities. Some of this movement was attributed to the loss of employment and land caused by large-scale privatisation of the land. It is a mainly rural area, traditionally inhabited by different indigenous groups (Nivacle, Enlhet Norte, Enxet Sur, Angaité, Sanapaná, Ayoreo, Guayaní Nandeva)<sup>6</sup>. Indigenous peoples in the Chaco region are often subjected to extreme poverty, social exclusion and discrimination.

Reports from stakeholders to the Special Rapporteur suggested that the vulnerability of indigenous peoples to forced and bonded labour is rooted in the historical sale of indigenous land to large landowners, agribusiness and forestry companies without the free, informed and prior consent of indigenous peoples. Whilst this reportedly caused displacement towards urban centres in some cases, many indigenous peoples remained in the Chaco region and became a source of labour for landowners. Their vulnerability to deeply exploitative labour practices is heightened by the absence of the state in the region, a lack of awareness of their rights, an inability to speak Spanish in some cases and high levels of illiteracy.

According to information received by the Special Rapporteur, such workers are subjected to practices that would constitute forced labour and a form of contemporary slavery. They are reported to work long hours without breaks and to receive all or the majority of their wages in vouchers or credits that can be spent at shops owned by employers. Given the geographical isolation of many labour sites, such shops have a monopoly and charge inflated rates for basic subsistence items. In many cases the value of the vouchers is not enough to cover the basic needs of workers and their families, leaving workers in situations of debt and vulnerable to bonded labour.

During her visit to the Chaco region, the Special Rapporteur received multiple reports from different stakeholders about the labour conditions in ranches and co-operatives. She has the impression that there is a complex relationship between the Government, business owners and indigenous peoples and that historical subjugation of indigenous rights, including rights to their land, and the long-standing absence of the state has left indigenous people very vulnerable to exploitation. She does not believe that forced or bonded labour takes place across all or even the majority of employers and received reports of co-operatives and ranches broadly complying with national law, as well as recent improvements in levels of compliance. However information received suggests that there are instances of and vulnerability to forced and bonded labour within some labour sites and a lack of regulation amongst smaller employers. She also remains concerned about a broader pattern of corporate capture of parts of the Chaco region, whereby large companies have monopolies over goods and service provision, play a key role in political and policy processes and fill gaps created by the absence of the state. She gained the impression that this created systemic power imbalances between indigenous peoples and businesses leaving them highly vulnerable to exploitation.

### ***Domestic servitude***

The Special Rapporteur is concerned about the situations of domestic workers in the country, the majority of whom are women. She fears that they could be at risk of domestic servitude because of weaknesses with the legal framework and its implementation. According to reports received by the Special Rapporteur, the 2015 law on domestic work achieved some progress in relation to the labour rights of domestic workers. It increased the proportion of the minimum wage that such workers should be paid in cash, rather than in-kind services such as food and accommodation, from 40% to 60%. It also

to be paid in cash, rather than in kind services such as food and accommodation, from 10% to 50%. It also included provisions to improve access to social security. However the Special Rapporteur received information that suggested that labour inspectorate doesn't effectively cover this form of work and that the vulnerability of domestic workers continues to persist with some working under very exploitative conditions, which include restrictions on their freedom of movement and payment below the minimum established within the new law. She is of the view that 100% of the minimum wage should be paid in cash and that in-kind services are not an appropriate form of payment for any kind of labour.

### ***Challenges in relation to access to justice***

As established in the Special Rapporteur's forthcoming thematic report to the 36th session of the Human Rights Council, access to justice and remedy is a fundamental element of slavery eradication efforts. It supports the rehabilitation and reintegration of victims and provides disincentives against the perpetration of related human rights violations. During her visit to Paraguay the Special Rapporteur received information about a number of barriers to access to justice for victims of contemporary forms of slavery. These included the absence of legal definitions and criminal sanctions for a number of manifestations of contemporary forms of slavery, the lack of geographical coverage of law enforcement and judicial entities in isolated and rural areas, an unwillingness of some law enforcement agencies to investigate crimes, fear of retaliation or job loss if abuses are reported, a lack of awareness of their rights amongst victims and the often hidden nature of violations. The Special Rapporteur encourages the Government of Paraguay to take concrete steps to remove these impediments to access to justice in order to fully uphold their obligations under international law.

### **Key recommendations**

A full set of recommendations will be presented in the report of the Special Rapporteur to the Human Rights Council in 2018. Ahead of this report, the Special Rapporteur presents the following priority recommendations to the Government of Paraguay and other stakeholders.

#### *To the Government of Paraguay*

- Undertake an analysis of the labour market to identify the prevalence of forced labour and bonded labour, as well as child labour and its worst forms.
- Accelerate efforts to ensure that *Criadazgo* is fully defined within the national legal framework with penalties for those that exploit children in this way.
- Alongside closing the legal protection gap relating to this phenomenon, invest resources in understanding and tackling the socio-economic root causes of *Criadazgo*.
- Ensure all contemporary forms of labour, including all manifestations of forced labour and bonded labour, are criminalised as standalone offenses within national law as per Paraguay's obligations under international law.
- Undertake awareness raising and sensitisation activities to continue progress in changing social and cultural attitudes that can enable the continuation of manifestations of contemporary forms of slavery, including *criadazgo*, the worst forms of child labour, forced begging, forced labour, bonded labour and domestic servitude, in Paraguay.
- Expand the resources available to and reach of social development programmes, such as *Abrazo*, which target the root causes of contemporary forms of slavery.
- Consider options for increasing the minimum wage in Paraguay.
- Ensure that domestic workers are paid 100% of the minimum wage and that employers are prohibited from paying such workers through any forms of in-kind services, such as accommodation and food.
- Prohibit the payment of any kind of workers through in-kind services or vouchers. All workers should be paid at least the minimum wage in cash.
- Develop community-based programmes in the Chaco region to sensitise communities vulnerable to forced labour about their rights under Paraguayan law.
- Increase the capacity and geographical reach of the labour inspectorate, including ensuring oversight of domestic servitude and labour sights, including all ranches, in the Chaco region.
- Take action to remove all barriers to access to justice for victims of contemporary forms of slavery, including in geographically isolated areas.

#### *To other stakeholders*

- The UNCT to ensure that implementation of target 8.7 to "take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by

2025 end child labour in all its forms” is integrated into efforts to implement the sustainable development goals as a core part of the 2030 agenda.

- Private sector actors should ensure compliance with human rights within all business activities, as established under the UN Guiding Principles on Business and Human Rights.
- Private sectors actors should take concrete steps in ensuring an increase in the availability of decent work opportunities in Paraguay.
- NGOs and other civil society actors should continue and expand upon programmes that tackle contemporary forms of slavery, its causes and consequences.

#### Notes:

1. World Bank, “Paraguay Overview” <http://www.worldbank.org/en/country/paraguay/overview> & CIA World FactBook, “Paraguay” <https://www.cia.gov/library/publications/the-world-factbook/geos/pa.html>
2. Reports from a number of stakeholders during meetings with the Special Rapporteur
3. Reports from a number of stakeholders during meetings with the Special Rapporteur
4. ILO & DGEEC, 2011, "Magnitud y características del trabajo infantil y adolescente en el Paraguay : Encuesta Nacional de Actividades de Niños, Niñas y Adolescentes"
5. CRC/C/PRY/CO/3
6. Anti-Slavery International (2006). Formas contemporáneas de esclavitud en Paraguay, [http://www.antislavery.org/includes/documents/cm\\_docs/2009/s/spanish\\_paraguay\\_report\\_06.pdf](http://www.antislavery.org/includes/documents/cm_docs/2009/s/spanish_paraguay_report_06.pdf).