



March 2012

today's fight for tomorrow's freedom

**Anti-Slavery International Submission for the Universal Period Review of Peru:  
14th Session, 22 October – 5 November 2012**

**Information on submitting organisation:** Anti-Slavery International was established in 1839 and works to eradicate all contemporary forms of slavery: bonded labour, forced labour, human trafficking, descent based slavery, the worst forms of child labour, and forced marriage.

**Executive summary:** This submission focuses primarily on child domestic workers in Peru. Despite 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, and which prevents them from enjoying their right to a quality education. Many are in situations of forced labour, and many children from rural areas are trafficked into this sector.

**1. Child domestic workers 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 26,000<sup>1</sup> and 600,000<sup>2</sup>. 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 (although under exceptional circumstances entry at 12 years old is permitted).<sup>3</sup> 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***

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<sup>1</sup> Encuesta Nacional sobre Trabajo Infantil, realizada por el Instituto Nacional de Estadística e Información, Lima – Perú. 2007

<sup>2</sup> Asociación Grupo de Trabajo Redes (AGTR) and Walter Alarcón

<sup>3</sup> 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>.

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.<sup>4</sup>

Child domestic workers may have to use electrical equipment, machinery, chemicals and other hazardous materials, often without training or protection. 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.<sup>5</sup>

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.<sup>6</sup>

By law, 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.<sup>7</sup>

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.<sup>8</sup> One hundred and ninety five child domestic workers (8%) accessing AGTR services between 2009 and 2011 did not have their own bed.<sup>9</sup>

Child domestic workers can be extremely isolated. Employers control the child domestic worker’s 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 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***

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<sup>4</sup> Report of the UN Special Rapporteur on Contemporary forms of Slavery, Gulnara Shahinian, Mission to Peru, A/HRC/18/30/Add.2, Geneva, 15 August 2011, paragraph 50

<sup>5</sup> Asociacion Grupo de Trabajo Redes (AGTR), *Trabajo Infantil Domestico: Percepciones de ninas, ninos y adolescents*, Peru, 2010, p52

<sup>6</sup> *Ibid.*, p37

<sup>7</sup> *Ibid.*, pp37-38

<sup>8</sup> *Ibid.*, p37

<sup>9</sup> AGTR data: problems identified by child domestic workers using drawings between 2009 and 2011

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'.<sup>10</sup> 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'.<sup>11</sup>

### ***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. 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.<sup>12</sup>

## **2. The legal framework and government response**

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. 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 workers is 14 years old, but exceptionally 12 years old.<sup>13</sup>

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 CPETI's proposed National Plan for 2011-2016, which is awaiting approval.

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<sup>10</sup> AGTR, *Trabajo Infantil Domestico: Percepciones de ninas, ninos y adolescents*, op.cit, pp34-35

<sup>11</sup> Report of the UN Special Rapporteur on Contemporary forms of Slavery, Gulnara Shahinian, Mission to Peru, op.cit, paragraph 49

<sup>12</sup> AGTR, *Trabajo Infantil Domestico: Percepciones de ninas, ninos y adolescents*, op.cit, p26

<sup>13</sup> 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>.

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

### **3. Obstacles**

#### ***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.<sup>14</sup>

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 2011-2016 plan, does not have any permanent staff or dedicated funds to carry out the plan, and lacks sufficient authority.<sup>15</sup>

#### ***Access to education***

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 study schedule of public schools - either a morning, afternoon or night shift - is brief and extra curricular activities are either limited or non-existent. 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.<sup>16</sup> 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

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<sup>14</sup> Report of the UN Special Rapporteur on Contemporary forms of Slavery, Gulnara Shahinian, Mission to Peru, op.cit, paragraph 49

<sup>15</sup> *Ibid*, paragraph 67

<sup>16</sup> AGTR, *Trabajo Infantil Domestico: Percepciones de ninas, ninos y adolescents*, op.cit, p69

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.

#### ***Lack of access to national health insurance***

All workers in Peru must be registered by their employers with *EsSalud* (Social Security) for the national health insurance scheme. However, many employers of domestic workers do not do this. Also, for many domestic workers the costs of joining the scheme are prohibitive because, despite often not receiving the minimum wage, they have to pay a level of contribution as if they were receiving the minimum wage.

#### ***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, 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.<sup>17</sup>

### **4. Conclusions and Recommendations**

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, and which prevents their right to a quality education. 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 urged to:

- Take immediate action to protect and assist child domestic workers. The Government must 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;
- 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;
- Improve the quality of education provided to child domestic workers through the Alternative Basic Education programme. The Government should ensure that the standard of education provided is not lower than for children in the Regular Basic Education programme, that educational staff are monitored and appraised against the quality of education they provide and that the curriculum is of equal strength and quality;
- Ensure that child domestic workers have access to quality health care through the National Health system;
- Raise public awareness about the risks associated with child domestic work;
- Sign and ratify ILO Convention No189 on Decent Work for Domestic Workers.

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<sup>17</sup> Report of the UN Special Rapporteur on Contemporary forms of Slavery, Gulnara Shahinian, Mission to Peru, op.cit, paragraph 69