

# Supplementary information report submitted by the Human Rights Commission of the Legal Clinic at the PUCP to the CESCR regarding trafficking in persons in Peru

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## 1. Presentation

The present report is the result of the research conducted by the Human Rights Commission of the Legal Clinic of Public Interests at the Pontificia Universidad Católica del Perú (PUCP) in response to the request for information on the extent of trafficking in persons, especially women and children, in the Republic of Peru, and the measures taken to face this phenomenon.

This report attempts to answer the request issued in resolution E/C.12/PER/Q/2-4 of the Committee on Economic, Social and Cultural Rights (CESCR). In particular, paragraph 14 of the list of issues to be taken up in connection with the considerations of the periodic reports of Peru concerning article 10 (Protection of the family, mothers and children) of the International Covenant on Economic, Social and Cultural Rights.

It mainly covers the period 2004 – 2011 and gathers information at a national and regional level, in order to present a broad overview of the problem. Likewise, the report is based on official data, issued by national authorities, and additional information provided by nongovernmental organizations (hereinafter, NGOs) and by the press.

## 2. Overview of the crime of trafficking in Peru

Although the Peruvian government has signed several treaties on this matter, the numbers presented below, in relation to the crime of human trafficking, highlight a real problem that mostly ails the historically most vulnerable segment of the population: women, and especially, girls.

Despite many efforts, trafficking in women in Peru has not had the desired attention, due to the lack of interest in the public agenda. This fact still reproduces the gender inequality and the persistent discrimination in the Peruvian society. Those are the circumstances, the seriousness of the situation and the lack of interest and organization of the government, which motivated us to conduct the research that we present.

## 2.1 Situation in numbers at a national level

Although there is no entire reliable record in Peru which condenses all the information regarding the crime of human trafficking perpetrated in the country, according to the Sistema de Registro y Estadística del delito de Trata de personas y Afines<sup>1</sup> (hereinafter, RETA) developed by the Policía Nacional del Perú (hereinafter, PNP), there are 500 complaints registered between January 2004 and July 2011.

Furthermore, considering that the crime of human trafficking is known for having different purposes, the RETA has conducted a particular investigation. Thus, it has been found that the number of cases regarding sexual exploitation amounts to 299 (59.44%). Moreover, those that are related to labor exploitation amount to 151 (30.02%). In 0.14% of the cases, children are forced into labor on the streets begging for money or food. In addition to, in some rare but more severe cases, 0.40% of children are sold for profit.

It is worth mentioning that although the RETA's research takes into account different purposes that characterize the crime of human trafficking, as it is defined in an international scope<sup>2</sup>, it does not include within the sample, the trafficking in persons for slavery purposes. This is important information that should be included in the study in order to have a complete framework to the crime assessment.

Equally, in the above mentioned period, 1334 women have been registered as victims nationwide. As it can be seen, this information has been systematized on an age basis, as follows:

Age range of women victim of human trafficking (January 2004 - July 2011)		
Ages	Number of victims	% of victims
From 0 to 13 years old	53	3.97%
From 14 to 17 years old	527	39.51%
From 18 to 30 years old	660	49.48%
From 31 to 99 years old	94	7.05%
Total amount	1334	

At this point, the magnitude of the problem is already known, considering as well that the numbers presented are not the total amount of actual victims in Peru. As some NGOs reported, in an investigation conducted by the United States Embassy in Peru, the electronic tracking system used by the police does not have promptly updated information.<sup>3</sup>

<sup>1</sup> Source: Sistema RETA (Registro y Estadística del delito de Trata de personas y Afines /PNP). Available at: [http://www.pnp.gob.pe/documentos/trata\\_personas.pdf](http://www.pnp.gob.pe/documentos/trata_personas.pdf) reviewed on November 07<sup>th</sup>, 2011.

<sup>2</sup> The Palermo Protocols, November 15<sup>th</sup>, 2000.

<sup>3</sup> United States Embassy in Peru. Reporte sobre trata de personas 2011. Available at: <http://spanish.peru.usembassy.gov/tip.html> reviewed on November 07<sup>th</sup>, 2011.

All things considered, despite the seriousness of the crime, The Peruvian State has not yet registered the information properly, failing to have a clear and complete overview of the situation it attempts to address. Therefore, it should be recommended to the Peruvian government to create a record which includes all the aspects of the crime of human trafficking as it is defined at the international level.

## 2.2 Situation in numbers at a regional level

Women, youngsters, and even children in Peru are recruited and forced into prostitution in nightclubs, bars and brothels in urban and mining centers, being the result of false job offers or promises to receive better education.<sup>4</sup>

The departments of Madre de Dios, as well as the cities of Cuzco, Lima, Iquitos, Arequipa, Puno and Piura were identified as some of the main destinations for victims of human trafficking for sexual exploitation purposes in Peru.<sup>5</sup> According to the Ministry of the Interior – MININTER, in Madre de Dios, locations like Huetupe, Mazuko and others along the rivers Tambopata and Madre de Dios<sup>6</sup> are the scenarios for this kind of crimes. It is important to realize that in those cases, the perpetrators are rarely prosecuted, and the authorities usually fail to react.

The victims are relocated from one place to another within the country, normally from areas with structural problems, like poverty or social conflict, to developed areas with better living standards; usually from rural to urban areas.

According to the information provided by the Public Prosecutor’s Criminality Observer (or in Spanish, Observatorio de Criminalidad), 228 complaints were reported between December 2009 to December 2010<sup>7</sup>, which could be systematized on a judicial department basis, as follows:

Departments with the highest incidence of complaints on human trafficking		
Departments	N° of complaints	% of complaints
Madre de Dios	32	27.4%
Lima	31	26.5%
Cusco	21	17.9%
Puno	19	16.2%
Loreto	14	12%
<b>Total Amount</b>	<b>117</b>	<b>100%</b>

<sup>4</sup> Idem.

<sup>5</sup> Plan Nacional de Acción contra la Trata de Personas en el Perú 2011-2016.

<sup>6</sup> Source: Info Región webpage. Available at: <http://www.inforegion.pe/portada/66008/madre-de-dios-entre-las-regiones-con-mayor-incidencia-de-casos-de-trata-de-personas/> reviewed on November 14<sup>th</sup>, 2011.

<sup>7</sup> Grupo De Trabajo Multisectorial Contra La Trata De Personas. Informe del Estado Peruano 2010 Available at: <http://www.mininter.gob.pe/cnddhh/pdf/TRATA/2010IE.pdf> reviewed on November 14<sup>th</sup>, 2011.

As can be seen, more 50% of the complaints, during the aforementioned period, are concentrated in those five (5) departments, confirming that the main destination for human trafficking is located outside Lima.

From the 228 studied cases, 366 victims were registered. As it establishes, victims were mainly from the following areas:

Main departments of origin of victims		
Departments	Number of victims	% of victims
Cuzco	53	31.6%
Lima	38	22.6%
Loreto	24	14.3%
Apurímac	19	11.3%
Huánuco	17	10.1%
Junín	17	10.1%
Total Amount	168	100%

Victims from those cities comprise 45.9% of the total registered amount. Moreover, there is also a higher incidence in female victims, constituting 81.6% of all registered.

Additionally, it is worth mentioning that six (6) internal routes for human trafficking for sexual exploitation purposes have been identified, as follows:

- North Cost Route with major destination in Lambayeque and Chiclayo,
- North Selva Route with major destination in Iquitos and San Martín,
- Lima, as the main destination,
- South Selva Route with major destination in Pucallpa and Cusco,
- South Sierra Route with the following destinations: Quillabamba y Sicuani en Arequipa, Puerto Maldonado, Pucallpa, Puno, Juliaca, and particularly La Rinconada mine.
- South Cost Route with major destination in Arequipa (Majes y Pedregal), Lima and Moquegua.

Finally, it is important to realize that, according to the Instituto Nacional de Estadísticas e Informática<sup>8</sup> (hereinafter, INEI), extreme poverty rates are found in the departments of: Madre de Dios (8.7%), Ica (11.6%), Lima (13.5%), Tacna (14.0%), Moquegua (15.7%), and Arequipa (19.6%). As a result, it should be noted that human trafficking in Peru is closely linked to structural poverty rates and correlated with low educational levels.

<sup>8</sup>INEI. Evolución de la Pobreza al 2010. Lima, Mayo 2011. Available at: <http://www.inei.gob.pe/documentosPublicos/Pobreza2010/InformeTecnico.pdf> reviewed on November 29<sup>th</sup>, 2011.

## 2.3 Victims' profile

In view of the above mentioned, it can be concluded that the first characteristic of the human trafficking victim is the gender. Women are the group most likely to be victims of this crime. In addition, a second criterion to consider is the age. Girls together with women under 30 years old are the most common victims.

Likewise, according to the social indicators administered by the INEI, victims have a common factor of poverty and low educational level. On average, women coming from urban and rural areas have among 10.4 and 6.8 years of school instruction, respectively. As a result, women and girls are at a greater level of vulnerability. The economic situation should be also taken into account. Traffickers tend to take advantage of this condition, and recruit victims through false promises of profit improvement and even, a better future.<sup>9</sup>

On the other hand, one of the problems faced in order to set up a common victims' profile, is the lack of information provided, voluntarily, by the victim, regarding her own situation. Many times the silence about their situation is another characteristic of the victims; this is due to their fear to reprisals as a consequence of their own condition.

## 3. Legal framework

There are three (3) main components within the legal analysis of the trafficking in persons in Peru, particularly related to women and girls: prevention, prosecution and protection.

### 3.1 Prevention of human trafficking: deficiencies

It is important to recognize that the Peruvian government has made considerable efforts and progresses to meet international standards regarding the prevention of trafficking in persons within the country. Nonetheless, there are still some tasks to be done, and some rules to be implemented.

Although the Peruvian government prepared a draft called "Plan Nacional de Acción contra la Trata de Personas"<sup>10</sup>, which was designed to be carried out between 2007 and 2013, it was not approved nor implemented, due to the lack of budget and especially, of political will. As it has been highlighted and criticized by the U.S. Embassy report regarding the situation of trafficking in persons in Peru, issued in 2011, that situation had delayed the development of important measures that were being taken against trafficking in persons in Peru.

A new National Action Plan against Trafficking in Persons (hereinafter, the Action Plan) has been approved this year, to be carried out between 2011 and 2016. Both, the previous and

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<sup>9</sup> Capital Humano Social Alternativo. La trata de personas en el Perú: Manual para conocer el problema. Lima 2010. p.27.

<sup>10</sup> In english: National Action Plan against Trafficking in Persons.

the new plan are based on the internal Law No. 28950 (Law against Trafficking in Persons and Smuggling of Migrants), dated on January 16<sup>th</sup>, 2007.

The victims' assistance is another important area that needs to be developed. An assessment of the Peruvian situation, including the new Action Plan<sup>11</sup>, shows that there is not even a protocol to assist victims, being this a serious delay in the fight against trafficking in persons. Furthermore, the lack of shelters and appropriate medical care for victims, added to the psychological abuse they are subjected to, even by the police that rescue them, are a disincentives for the complaints. There are several victims who do not report their cases due to the fear of being subjects of double victimization and not receiving the proper treatment to overcome their problem.

Likewise, a recent report prepared by the United Nations Special Rapporteur on Contemporary Forms of Slavery, during her visit in Peru, identified important failures to address trafficking in persons for labor exploitation purposes. For example, it was found that the Labor Inspectorate does not have enough and proper human, material and financial resources to carry out its surveillance and inspection work optimally. Thus, it is difficult for them to conduct safe inspections in remote areas and communities. This clearly represents an important gap regarding the prevention of trafficking in persons.

In the same way, no social policies to investigate the reason why children are force-labored victims have been developed. To this respect, the establishment of a compulsory reporting surveillance system of child workers was recommended by the Special Rapporteur, in order to verify that both, parents and employers, fulfill their duty to register them, according to Article 52 of the Peruvian Code of Children and Adolescents. The Rapporteur also highlighted the lack of information regarding human trafficking victims for labor exploitation purposes. This also represents a failure in the prevention of the crime, because without enough data it is impossible to develop and implement new policies and measures that could directly face the problem.

### 3.2 Prosecution of human trafficking

Trafficking in persons in Peru is at a very early stage. Even though it is possible to recognize that there have been some achievements regarding the prosecution of human traffickers after the enactment of Law No. 28950, it is just the initial phase.

The last report with respect to human trafficking in Peru exposes the main flaws at the prosecution stage: a lack of coordination between public institutions, as well as poor knowledge on the obligations that State entities have regarding the treatment of victims,

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<sup>11</sup>Plan Nacional de Acción contra la Trata de Personas 2011-2016. [http://www.mininter.gob.pe/userfiles/DS-MIN-004-2011\(1\).pdf](http://www.mininter.gob.pe/userfiles/DS-MIN-004-2011(1).pdf) reviewed on November 12<sup>th</sup>, 2011.

also coupled with the lack of policies in order to the implement international compromises, such as the grant of a Refugee Statute, are some of them.

The aforementioned lies in two (2) main reasons: the little participation of the Public Prosecutor and the absence of prevention policy campaigns. In this sense, it is only possible to refer to some of the implementation policies like the control strategies addressed by the General Direction of Migration and Naturalization.

In Peru, an effective administration with regard to migration control is being promoted; however, the problem resides on the fact that migratory control posts are not fully enabled. Even though the situation is better in relation to aerial transport, it is not the same in the cases of land and sea transport.

Concerning the PNP, there is no coordinated work with the institution; however, a specialized section was created, in 2004, within the PNP and set under the Dirección de Investigación Criminal (hereinafter, DIRINCRI) control, in order to investigate and register, at the police level, the crime of human trafficking. In addition, as it was mentioned before, although there is a registry of the victims (the RETA), the information that it provides is outdated.

Furthermore, there are also problems regarding penalties for the crime of human trafficking. Even though the Law No. 28950 sanctions this crime with a penalty from 8 to 25 years of imprisonment; some judges apply lesser sanctions, which are inadequate and not related to the committed crime.

Several anonymous cases presented by the Report on trafficking in women and children proofs the existence of complicity by local authorities. The corruption within the Peruvian State is considered one of the main reasons for the delay and the weakness at the prosecution stage. The Peruvian Government has not published yet the number of cases where its official personnel had been punished for participating directly or indirectly in the crime of trafficking in persons.

Likewise, the last report on human trafficking in Peru, prepared by the United States Department of State, highlights the lack of measures adopted by the Peruvian State to protect plaintiffs and witnesses of such crimes.

As an illustration of the aforementioned, the Congressman Nestor Valqui has been appointed for being the alleged owner of a brothel in Junín. Nonetheless, no serious investigation before the Ethics Committee at the Congress has stated yet. It is worth mentioning that in Peru there is no leading case regarding the crime of trafficking in persons.

Finally, the judicial officers are also part of the problem. Although it has been proven that there are mine areas where child prostitution is a common situation, the Peruvian State has not prosecuted and punished the perpetrators yet. To date, the PNP has investigated 83 potential cases of trafficking in persons. From those, 2 were related to forced labor and 25 to sexual exploitation purposes. The authorities brought 18 cases before the Judiciary, and only 12 traffickers were convicted, with penalties up to 30 years of imprisonment. It should also be noted that during last year, 78 cases were registered and investigated, and only 9 convicted.

### 3.3 Victims protection

The National Action Plan has three main objectives regarding the protection of victims, as follows:

- i) to take care of victims, facilitate their recovery and reintegration,
- ii) to assist Peruvian victims of human trafficking abroad, to defend their rights in the country of destination or transit and to facilitate their voluntary return or repatriation; and
- iii) to assist foreigners who have been victims of human trafficking in Peru or those who are in transit across the country.

Nevertheless, the Peruvian State faces a structural problem within its institutions and social assistance programs, not being possible to establish specific guidelines for the protection of victims. For example, "The National Program for Family Wealth Care" prepared by INABIF, in charge of the Ministry of Women and Social Development, has more than 36 shelters and 35 development centers to help the National Family; however it does not even have a protocol or a specialized program for the attention of victims of human trafficking.

Moreover, it is worth mentioning that the Ministry of Labour and Employment, as a member of the multi-sectorial group against trafficking in persons, does not have guidelines to conduct properly inspections against human trafficking for forced labor purposes. In this regard, the Peruvian State has not yet adopted the measures recommended by the International Labour Organization (ILO), among which is the creation of handbooks for labour inspectors to ensure compliance with national labour laws on human trafficking.

Finally, it should be noted that another of the problems faced regarding the victims' protection, is the lack of an official program for the proper medical treatment of victims.

## Conclusions

1. The principal victims of human trafficking in Peru are women and girls. Despite this, the Peruvian State has not given the importance that it requires. The lack of interest and political will of the State are the main causes.
2. The Peruvian State does not have a reliable national register that gathers all available information related to the crime of trafficking in persons. The RETA is an alternative tool that tends to be a helpful guide to tackle the problem.
3. Although the domestic legislation that punishes the crime of human trafficking is based on a unanimous definition of the crime, as it is stated in the Palermo Protocols, that is not reflected in the record of cases nationwide. Due to this situation, even when there is a proper legal framework, it is difficult to face the crime of human trafficking, since it is not studied from all its angles.
4. In Peru, victims of trafficking in persons have a common profile: poverty, as a similar socio-economic status and low educational level. Those are factors that enable and assist the configuration of the crime.
5. The Peruvian State has progressed at the prevention of trafficking in persons; however, there are still unsolved problems, and rules to be implemented. The Peruvian State shall strive to meet the terms of the new "Plan Nacional de Acción contra la Trata de Personas".
6. One of the remaining tasks at the prevention phase is the creation of shelters for victims (women and girls). Likewise, the Peruvian State has the duty to provide sufficient resources to labor inspectors, for them to work in an effective way, in order to help in the prevention of human trafficking.
7. The problem concerning the prosecution of the crime of human trafficking is mainly due to corruption. This undermines the investigation and subsequent punishment of the crime, which results in an inefficient administration of justice.
8. Regarding the victims' protection, the Peruvian State faces a structural problem within the institutions and social assistance programs, not being possible to establish specific guidelines for protection.

Lima, November 29<sup>th</sup>, 2011