

Contemporary forms of slavery in

# Argentina

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Anti-Slavery International 2006

# Contents

	Map of Latin America	
	Map of Argentina	
<b>1.</b>	<b>Background</b>	<b>1</b>
<b>2.</b>	<b>Trafficking</b>	<b>2</b>
2.1	Trafficking of Dominican women to Argentina for sexual exploitation	3
2.2	Trafficking of Paraguayan women and girls to Argentina	4
	Map of the destinations in Argentina to which women trafficked from Paraguay are sent	5
2.3	Trafficking of Argentine women and girls	6
2.4	Trafficking for labour exploitation	7
2.5	The Government's response to trafficking	8
2.6	Conclusions	12
<b>3.</b>	<b>The commercial sexual exploitation and sale of children</b>	<b>13</b>
3.1	Child prostitution	13
3.2	Other forms of commercial sexual exploitation and the sale of children	14
3.3	Government response and conclusions	15
<b>4.</b>	<b>Selected Bibliography</b>	<b>17</b>
	Related publications from Anti-Slavery International	17

## Map of Latin America



# Map of Argentina



# 1. Background

In the late 1990s, Argentina's economy went into a sharp decline. Its currency was overvalued, growth was stagnating and its external debt became unmanageable. In 1999, Brazil devalued its currency and Argentina's recession became a crisis. At the end of 2001, the public lost confidence in the banking system and began making huge withdrawals from their accounts. The government set limits on these withdrawals, defaulted on its international debts and floated the peso, which lost two thirds of its value. The result of this for the general population was a loss of savings, purchasing power, jobs and social security and a massive increase in poverty and social exclusion.

In the first half of 2003, 57.5 per cent of the population in urban areas were living below the poverty line (some 20 million people) and 27.5 per cent of the population was below the extreme poverty line (up from 11.3 per cent in 1990).<sup>2</sup> The gravity of Argentina's economic situation encouraged a large number of people to seek work abroad. According to estimates from the National Migration Directorate, some 255,000 people left the country in the two and a half years from 2001 - roughly six times the number that left between 1993-2000.<sup>3</sup>

By April 2004, the government reported an improvement in the economic situation with 46 per cent of the population living in poverty and 16 per cent living in extreme poverty.<sup>4</sup>

## Development indicators<sup>1</sup>

**Classified as a severely indebted upper middle income economy (\$3,256-\$10,065 GNI per capita).**

**Population: 38.2 million**

**Urban population: 90 per cent of total population**

**GNI per capita: US\$ 3,720**

**Poverty: 55 per cent of the total population below the national poverty line**

**Life expectancy: 74.5 years**

**Infant mortality: 17 per 1,000 live births**

**Child malnutrition: 5 per cent of children under five**

**Access to an improved water source: 94 per cent of the population**

**Illiteracy: 3 per cent of the population over 14**

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

<sup>2</sup> UN Commission on Human Rights, Working Group on the Right to Development, *Review of progress and obstacles in the promotion, implementation, operationalization and enjoyment of the right to development*, United Nations, Geneva, 23 January 2004, E/CN.4/2004/WG.18/3, page 7.

<sup>3</sup> Maia Jachimowicz, *Argentina's economic woes spur emigration*, Migration Policy Institute, 1 July 2003, www.migrationinformation.org

<sup>4</sup> Consejo Nacional de Niñez, Adolescencia y Familia (CONNAF), *Investigación sobre Tráfico de Niños, Niñas y Adolescentes con fines de Explotación Sexual, Pornografía Infantil en Internet y Marcos Normativos*, República Argentina, Buenos Aires, 2004, page 10.

## Argentina'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. Trafficking

In the last ten years, women and girls from countries like Paraguay, the Dominican Republic and Brazil have been trafficked to Argentina for sexual exploitation while Argentine women have been trafficked internally and across borders, principally to Brazil and Spain. Bolivian men, along with their families, have also been trafficked for labour exploitation in garment factories in Argentina.

Trafficked people have been identified in many provinces of Argentina including, Buenos Aires, Neuquén, La Rioja, Entre Rios, Córdoba, Rio Negro and Tucumán.

## 2.1 Trafficking of Dominican women to Argentina for sexual exploitation<sup>5</sup>

The 1991 Ley de Convertibilidad de la Moneda, established parity between the Argentine peso and the US dollar and made Argentina a very attractive destination for migrants who could earn the equivalent of more than US\$ 500 a month. Dominicans had no tradition of migration to Argentina, but between 1995 and 2002 more than 12,000 are thought to have arrived in search of jobs.<sup>6</sup>

Traffickers typically promised to arrange the flight and the required papers; accompany migrants on the trip or meet them in the airport in Argentina; and provide food and board for a month or until they found work. Migrants paid between \$2,000 and \$3,000 for this service.

In reality, almost all Dominican women entered through the international airport in Buenos Aires with regular documents and were issued standard tourist visas which did not entitle them to work. Migrants paid for a return ticket, but their return flight was often taken from them on arrival, along with their documents. Food and board were never paid so a new debt started to accumulate as soon as they arrived and the job they were promised never materialised. Of those interviewed by the IOM, none had been offered work in prostitution and almost 50 per cent had been falsely promised work as domestics.<sup>7</sup>

The majority of women had borrowed money to finance their trip. Over 50 per cent of those interviewed had taken a mortgage on

their home, their parent's home or a loan from a bank.<sup>8</sup> Around eight per cent of those interviewed owed the trafficker directly and were under even greater pressure to repay their debts.

The combination of deceit, debt and coercion (particularly the removal of documents and their return ticket) were effective in forcing the majority of Dominican migrants into prostitution without having to use physical violence or restraints. The lack of a support network established by previous migrants to which trafficked women could turn for advice or help made Dominicans particularly vulnerable to exploitation.

The minority who successfully resisted this coercion tended to be older and had access to some other form of assistance. For example, they were offered alternative work through a religious congregation or were supported by other Dominican migrants while they looked for alternative employment.

Typically trafficked Dominican women were forced into prostitution in clubs (boliches), saunas or brothels for either 12 or 24 hour shifts and were not able to reject clients. They could earn US\$1 per client or 30 per cent of the entry fee, but this would go towards paying off their debt and there could also be substantial charges for accommodation, food, electricity, etc. Some clubs also had strict rules with a system of fines and other punishments for non-compliance.

Initially, Dominicans were usually forced into prostitution in the province of Buenos Aires, but from there they were frequently moved on to other locations such as Rio Negro.

<sup>5</sup> Information in this section comes from research by CAREF, *Migración y trata de mujeres Dominicanas en la Argentina*, IOM, Buenos Aires, 2003. This research includes 77 interviews carried out by the IOM Assistance Programme for the Protection and Reintegration of Women and Children who have been Trafficked and from 397 surveys administered through the Dominican Consulate in Buenos Aires.

<sup>6</sup> CAREF, *op. cit.*, page 19.

<sup>7</sup> CAREF, *op. cit.*, page 33.

<sup>8</sup> CAREF, *op. cit.*, page 32.

## A profile of trafficked Dominicans

Dominican migrants who were trafficked to Argentina came from various regions of the Dominican Republic and around half had moved from their place of birth, indicating that internal migration, particularly to Santo Domingo, often preceded cross border migration.

The vast majority of migrants were women and some 90 per cent had children.<sup>9</sup> The break up of a relationship and the lack of financial support from the father left the mother solely responsible for providing for her children.

The great majority of Dominican migrants had salaried jobs (as domestics, nurses, administrators, etc.) or were self employed (selling goods, preparing food, etc.) before migrating. Over 50 per cent of those interviewed were earning the equivalent of between US\$13 and US\$100 per month.<sup>10</sup> Thus while most women were not unemployed, they were not satisfied with their income or their prospects.

Their options for getting better paying jobs in the Dominican Republic were limited by the economic crisis and by their own limited educational qualifications. Of those interviewed some 40% had not completed primary education and around 6% were illiterate.<sup>11</sup> Their studies had generally been interrupted by the birth of children or entering the labour market, normally when they were around 14 years old.

Despite all of the above, nearly 90 per cent of those interviewed said their decision to migrate was promoted by the recruiter rather than being a personal decision or one promoted by their family.

Those who were trafficked and returned were angry at being deceived and often could not recover their social or economic position from before they left. Many still had debts from the migration and/or found it difficult to get back into the labour market. Others suffered long-term physical and psychological affects from their treatment abroad.

The large scale migration and trafficking of Dominicans to Argentina was curtailed when Argentina abandoned its policy of parity with the dollar as it no longer made economic sense for Dominicans to migrate so far. Dominicans reverted to more traditional countries of destination like the United States and Spain.

## 2.2 Trafficking of Paraguayan women and girls to Argentina

While the economic crash had a major impact on the trafficking of Dominicans, the trafficking of other nationalities to Argentina continued and even increased in this period. A recent report published by the International Organization for Migration documented 473 women who were trafficked between 2000 and 2004. Of these, 259, or 52 per cent of the total, were trafficked into prostitution in Argentina. The majority were taken to Gran Buenos Aires and also La Plata, Córdoba, and Santa Fe. Río Negro and Catamarca were less common destinations.<sup>13</sup>

Although there is a great diversity in the profiles of those trafficked from Paraguay, generally the Paraguayan women who ended up in Argentina were from rural areas, lived in situations of extreme poverty and had little education. There was also a very high

<sup>9</sup> CAREF, *op. cit.*, page 25.

<sup>10</sup> CAREF, *op. cit.*, page 28.

<sup>11</sup> CAREF, *op. cit.*, page 24.

<sup>12</sup> CAREF, *op. cit.*, page 30.

<sup>13</sup> Unless otherwise stated information in this section comes from the research by 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, OIM, June 2005.



# The destinations in Argentina to which women trafficked from Paraguay are sent (including details from the province of Buenos Aires).



percentage of minors. Of the 259 Paraguayans trafficked to Argentina, 90 were under 18. This means that 62 per cent of all trafficked minors recorded in the study were taken to Argentina.

These figures of course do not represent the totality of trafficked women from Paraguay. For example, in June 2005, the Paraguayan Vice Consul noted that in the city of Posadas alone, province of Misiones, they had received more than 100 reports from parents of daughters who had disappeared and were believed to have been trafficked.<sup>14</sup>

## 2.3 Trafficking of Argentine women and girls

Argentine women and girls are also trafficked for sexual exploitation, both internally and across borders. Many of these women and girls are from Misiones, but they also come from Tucumán, La Rioja, Chaco and Buenos Aires. Spain and Brazil are the principle destinations for Argentine women who are trafficked across borders.

While coercion and deception are also commonly used to traffic Argentine women, there are also an unusually high number of kidnappings by gangs for internal and cross border trafficking. Such cases involve overt violence and the physical confinement of the women in order to stop them escaping and is exemplified by the Marita Verón case.

Marita with her mother and her son before she disappeared



www.casoveron.org.ar

## The Marita Verón case

**Marita Verón was kidnapped on 3 April 2002 in San Miguel de Tucumán, when she was 23 years old. Marita Verón's mother, Susana Trimarco, has uncovered evidence, including testimonies from others who have escaped from brothels (e.g. Fátima Mansilla, aged 16, and Andrea Romero, 15), which clearly indicates that Marita Verón was forced into prostitution by a trafficking gang.**

**In her search for her daughter, Susana Trimarco has found evidence of trafficking networks operating in the provinces of La Rioja, Tucumán, Buenos Aires, Córdoba and Santa Cruz and helped to rescue many women from traffickers, including some 17 women from Argentina who were forced into prostitution in Bilbao, Burgos and Vigo in Spain. However, more than four years after her abduction, Marita Verón has still not been found.**

**The Verón case is not an isolated example. Nearly 70 cases have been filed in Tucumán in the last five years regarding women and girls who have disappeared and are presumed trafficked.<sup>15</sup> In May 2005, the Office for the Integrated Assistance for Victims of Crime (Oficina de Asistencia Integral a la Víctima del Delito - OFAVI) noted they were assisting two young women from Tucumán who were kidnapped using chloroform and forced into prostitution in La Rioja.<sup>16</sup> The women and girls affected by this type of trafficking come from a wide range of backgrounds.**

<sup>14</sup> Virgínia Messi, *Denuncian que en el país trafican a mujeres y niñas paraguayas*, *Clarín*, 12 June 2005, page 60.

<sup>15</sup> *Caso Marita Veron*, Alianza Por Tus Derechos,

www.alianzaportusderechos.org, 13 December 2005.

<sup>16</sup> Rolando Barbano and Virgínia Messi, *La desaparición de mujeres*, *Clarín*, 29 May 2005, page 54.

## 2.4 Trafficking for labour exploitation

In 2001, the Special Rapporteur on the sale of children, child prostitution and child pornography noted that 56 Bolivian children and young people between nine and 20 years old were being held under armed guard, given one meal a day and forced to work in four clandestine sweatshops in the La Matanza area. They had been brought into Argentina by truck illegally after being sedated.<sup>17</sup> This proved to be part of a much larger problem of trafficking for forced labour.

In October 2005, 17 Bolivians were released from a textile factory in Buenos Aires which was owned by Juan Carlos Salazar Nina. The Ombudsman's Office for the city of Buenos Aires (Defensoría del Pueblo CABA), the IOM and a local community organisation known as La Alameda, helped the migrant workers file charges against Salazar for trafficking and forced labour.

Salazar, also Bolivian, had promised to pay the workers per garment produced, but once in the sweatshops they were forced to work up to 17 hours a day and received the equivalent of \$6.50 as an "advance".

Workers testified that Salazar threatened them, took away their documents and restricted their freedom of movement (including locking them into the factory) in order to keep them working against their will. Furthermore, food was only provided to employees, meaning adults had to share their food with their children. Some workers also reported that they were prevented from taking their children to school or to the doctor

because it would "interfere with production".

On 9 November 2005, Judge Oyarbide dismissed the case against Salazar and his wife, Remedios Flores, on the basis that there was insufficient proof to show the workers had been in servitude and that he did not have jurisdiction in relation to violations of labour laws. This happened despite the fact that eight former employees and neighbours gave evidence against Salazar. These witnesses also confirmed that police came regularly to the factory to take a percentage of the profits.

According to the Cooperativa de Trabajo 20 de Diciembre, a community organisation which helped bring the case, four of the 17 migrant workers were threatened personally or by telephone before Salazar was set free by the judge. The Cooperativa also alleged that police intimidated witnesses and offered them bribes to try and get them to change their testimonies.

The Ombudsman's Office estimated that tens of thousands of people could be working in similar conditions in sweatshops in and around Buenos Aires.<sup>18</sup> In the Parque Avellaneda district of the capital alone there are estimated to be around 40 small sweatshops, each employing between 15 and 30 people.

Although Bolivians are primarily affected, Paraguayans, Argentines and Peruvians<sup>19</sup> are also reported to be at risk of this type of exploitation, particularly in factories producing footwear.<sup>20</sup> Similar concerns have been raised about working conditions for Korean and Chinese migrants in factories and agriculture.

<sup>17</sup> E/CN.4/2001/78, 25 January 2001, par.21. Quoted in OMCT, *The Rights of the Child in Argentina*, OMCT, Geneva, 2002.

<sup>18</sup> Quoted in *Como presos en talleres de baja costura*, Página/12, 26 October 2005.

<sup>19</sup> Research by the IOM based on a census from the Consulate of Peru found that 52% of Peruvian migrants are women, with most having a degree or secondary schooling. Yet 74% of these women were working as domestics. The rest were normally taking care of the elderly/ill, working in the informal economy or working in the textile industry.

<sup>20</sup> Information from: *Como presos en talleres de baja costura*, Página/12, 26 October 2005; Marcela Valente, *Argentina: Slave Labour Alive and Well in Textile Sweatshops*, *Inter Press*, 2 December 2005; Comunicado de Cooperativa de Trabajo 20 de diciembre, 11 November 2005; and International Organization for Migration, press releases, 25 October and 14 November 2005.

## The Choele Choel case

**In November 2005, a joint operation involving the federal police, the federal attorney of Río Negro, OFAVI and the IOM, freed 17 young Paraguayan and Brazilian women from a brothel in Choele Choel, some 180 km from General Roca. The trafficked women, who had entered the country legally, were between 17 and 25 years old and came from Foz de Iguazú in Brazil and Santa Cecilia in Paraguay. They had been promised work as domestics, but were locked-up, their passports taken away and forced into prostitution to pay off their debts.<sup>21</sup>**

## 2.5 The Government's response to trafficking

### The legal framework

The Argentine Government ratified the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children in 2002, but it is not in compliance with this standard as it has no specific legislation which defines and punishes trafficking for sexual and labour exploitation.

While trafficking is not an offence in Argentina, the Penal Code does allow traffickers to be prosecuted for related crimes. For example, laws prohibit promoting or facilitating the entry or exit of a minor for the purposes of prostitution (Article 127 bis) and promoting or facilitating prostitution of those over 18 through deceit, violence, threats, abuse of authority, or any other means of coercion (Article 127 ter). Article 140 establishes penalties for those who reduce another

person to servitude.

These offences do not cover all aspects of trafficking as set out in the UN Protocol and they do not allow prosecutors to pursue all elements of the trafficking chain (i.e. those that recruit and transport the victims).

The lack of a specific trafficking offence in the Penal Code means that, even where trafficking cases are identified and successfully prosecuted, traffickers are still likely to escape with relatively light sentences. For example, Vincente Serio was charged with promoting and facilitating prostitution and convicted in 2002. He was sentenced to just four and half years in prison despite the fact that he forced dozens of trafficked women into prostitution in a network of brothels that he controlled in San Miguel and is likely to serve less than three years as most prisoners are eligible for early release.

In 2005, two separate judicial processes were started in a case involving two trafficked Bolivian girls, one for the corruption of a minor and the other for reducing a person to a servile status. This case underlines the need for a specific offence of trafficking. Such an offence must be a federal law. This would solve the current problem where judges can only act within the jurisdiction of their province and the conflicts over whether trafficking crimes come under national or provincial jurisdiction, both of which interfere with a thorough investigation of trafficking cases.

### Government institutions involved

A superficial review of articles in the media during 2005, indicated that at least 91 trafficked women and girls had been rescued from forced prostitution or had escaped and come forward to the authorities. In some of these cases, like Choele Choel (see right), there is evidence of effective inter-institutional

<sup>21</sup> Virginia Messi, Operativo en un Prostibulo de Choele Choel, Rio Negro, *Clarín* (Circulated by Alianza Por Tus Derechos, 30 November 2005) and IOM Press Release, 28 November 2005.



above: La Isla, a brothel in Rioja suspected of using trafficked women.

cooperation in anti-trafficking operations.

There are two key institutions which have responsibilities in relation to trafficking. OFAVI, which was designated the national focal point for trafficking in people in 2004, and the Ministry for Foreign Affairs, International Commerce and Culture (Ministerio de Relaciones Exteriores, Comercio Internacional y Culto), which is responsible for international coordination of trafficking issues.

OFAVI provides assistance to trafficked people, including legal advice, a risk assessment and, where appropriate, it refers individuals for social and psychological assistance. OFAVI has provided training for police on trafficking issues and works closely with the Ministry of Social Welfare.

The Ministry for Foreign Affairs represents Argentina at the Organisation of American States and MERCOSUR, where trafficking is a topic of increasing concern. It has also carried out awareness raising activities including cinema and television adverts, posters in the metro and information leaflets targeted at public libraries. The Ministry has provided training for consuls so they can recognise and assist trafficked people.

Along with awareness raising and training the Government has also supported free telephone lines to combat domestic violence or child abuse (see later section on commercial sexual exploitation of children for more details). However, not all of the lines are staffed by people who have had training on trafficking issues and therefore may not be able to identify and assist trafficked individuals appropriately.

Assistance can also be obtained from local centres (Defensorías) which have psychologists, social workers and lawyers at their disposal. However, such services are very much in demand and do not exist in many areas outside the capital.

### Action still needed

On 14 July 2005, a judge presiding over a case in which four trafficked women escaped from sexual exploitation in Necochea decided to apply the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The Protocol is incorporated into Argentine legislation under laws 25.632 and 25.763. In this ruling the judge ordered the Secretary for Human Rights of the Province of Buenos Aires to provide the victims with accommodation and ensure their physical, psychological and moral well-being.

This is an important precedent that shows that a judge can apply international standards to protect victims of trafficking. However, it underlines two important failures in the current Argentine system. First, support can only be ordered by a judge after a judicial process has been initiated and many trafficked people will require support before they would even consider taking legal action. Second, even if a judge orders support to be made available, there is generally an absence of specialised assistance for trafficked people in Argentina. For this reason, institutions like OFAVI and IOM have had to house trafficked people in inappropriate temporary accommodation, like hotels, because there is

no appropriate housing available.

Initiatives by the government, inter-governmental agencies and NGOs have increased public awareness in recent years, but understanding of trafficking issues still varies considerably within and between provinces.

Worse still, corruption within the police force and the direct involvement of individual officers in criminal activity linked to prostitution and trafficking seriously impedes efforts to address the issue. The following examples illustrate the problem:

- Research by the TV programme *Telenoche Investiga* in 2000 found that trafficked Paraguayan women were working in brothels in Escobar and Tigre in the province of Buenos Aires with the knowledge of local officials and politicians.<sup>22</sup>
- The disappearances or deaths of 26 women, many of whom were involved in prostitution, in Mar de Plata, province of Buenos Aires, was initially thought to be the work of a serial killer. However, a judge later determined that 13 of the deaths and disappearances were connected to an organisation of police officers involved in prostitution and drug trafficking.<sup>23</sup>
- In January 2005, three women managed to escape from traffickers, but did not go to the local police as many of the police officers were clients of the brothel where they were held. However, police at the station they did go to (the Cuartel Quinto in Moreno) refused to file the complaint and called the owner to let him know what was happening. The third police station they went to only filed the complaint under

duress.<sup>24</sup>

- In the same month, two minors were rescued from a brothel in the port of Quequén. The brothel was run by a municipal employee and a police officer from the province of Buenos Aires.<sup>25</sup>
- In the Vincente Serio case referred to above, Serio alleged that he had to pay 18,000 Argentine pesos to politicians and police so that he could continue running the brothels.<sup>26</sup>
- Witnesses in the Bolivian trafficking case of October 2005 (cited above) alleged that police officers received pay-offs from Salazar, intimidated witnesses and offered them bribes to change their testimonies during the trial.

Obviously, where the police are involved in trafficking, or are perceived to be involved by members of the public, it will make it much more difficult to encourage trafficked people to come forward and co-operate with the authorities.

The judicial system also lacks credibility as it is generally slow and inefficient. Between 2002 and November 2005, OFAVI provided direct assistance to victims in more than 100 trafficking cases, all of which have gone before judges, but only one had been resolved by the end of 2005.

### Proposed legislation

The Director General of OFAVI has drafted a comprehensive Bill for the Repression of the Trafficking in Persons and the Assistance of its Victims. The Bill has a number of positive measures which are worth highlighting:

<sup>22</sup> Channel 13, July 2000. Quoted in ONG CEDAW Contrainforme, *Derechos Humanos de las Mujeres: Asignaturas Pendientes del Estado Argentino*, CELS, et. al., August 2002, page 11.

<sup>23</sup> *Clarín*, 6 October 2001. Quoted in ONG CEDAW Contrainforme, *op. cit.*, page 11.

<sup>24</sup> *Denuncian que las esclavizaron para trabajar como prostitutas*, *Clarín*, 18 January 2005, page 37.

<sup>25</sup> Virginia Messi y Rolando Barbano, *Tráfico de mujeres: Un negocio de mafias familiares*, *Clarín*, 3 July 2005.

<sup>26</sup> *Pedido de condena para 4 acusados de prostituir a mujeres*, 15 December 2002, *Clarín*, page 56.

- It is consistent with the UN Protocol's definition of trafficking (Articles 1-2).
- It ensures that trafficked people are not punished for crimes committed as a result of their being trafficked, including immigration offences or prostitution (Article 4).
- Penal sanctions for trafficking start with sentences of between 4-10 years in prison (Article 5), but increase to 5-12 years for aggravating circumstances like the vulnerability of the victim, putting their health at risk or abusing a position of trust or responsibility (Article 6). If the trafficked person is under 18, the sentences start at 5-12 years and increase to 8-20 years (Article 7).
- The range of sentencing will be from 8-20 years in prison if the trafficking is a habitual activity, if the accused has organised the trafficking or if they have financially supported the trafficking (Article 8).
- If the victim's physical health deteriorates as a result of the crime the minimum sanction will increase by a third (Article 9).
- Those acting or pretending to act as employers, supervisors or agents and who destroy, remove or possess another person's identity documents will face sentences of 3-8 years in prison (Article 10).
- Victims have the right to information in a language they understand, appropriate accommodation, food, medical, psychological and legal assistance. They also have the right to stay in the country (at least during the legal process) or return to their own country if they prefer. Victims will not be held in prisons or with people who have been accused or condemned (Article 11).
- A National Programme for the Prevention and Assistance of Victims of Trafficking in

Persons will be set up, under the Ministry for Social Development, but in coordination with several other Government departments (Article 15). Its objectives include preventing trafficking, ensuring the respect of the rights of trafficked people, ensuring access of victims to free medical, psychological, social and legal assistance, and promoting awareness of trafficking. It will also promote protocols for joint working between institutions to implement action to prevent trafficking and assist victims, including their social reintegration (Article 16).

- The Programme will design policies to ensure the protection of trafficked people and establish mechanisms of cooperation between public and private organisations to research and document the problem with the aim to regularly publish statistics on trafficking in persons (Article 17).
- The National Programme for the Prevention and Assistance of Victims of Trafficking in Persons will be established 60 days after the approval of the Bill for the Repression of the Trafficking of Persons and the Assistance of its Victims. The details and responsibilities of the National Programme are set out in a separate Bill which has been drafted by Deputy María Elena Barbagelata.

This Bill provides a comprehensive framework for tackling the problem, but there is concern over the delay in its approval. Without a law which makes trafficking a federal offence it will not be possible to pursue traffickers across the country. Similarly, without a national programme of assistance and an action plan that clearly defines the roles for each institution involved, it will be difficult to fully implement the laws and make real progress against trafficking.

## Migration and trafficking

On 21 January 2004, a new Migration Law (Ley de Migraciones No. 25.871) came into force in Argentina. This law introduces a judicial process which has to be followed before a migrant can be expelled and includes several measures which should help to reduce trafficking:

- The irregular status of the migrant will not restrict their access to health or social services which they need (Article 8).
- The Government will look at measures to eliminate the employment of irregular migrants, including through punishing the employers, but this will not undermine the employment rights of workers (Article 16).
- The State will adopt and implement measures to regularise the migratory status of foreigners in Argentina (Article 17).
- Temporary residency can be given to migrants for humanitarian reasons (Article 23 m).
- Migrants cannot be the object of collective deportation (Article 66) and if they do face deportation this does not undermine their other rights under national legislation including their right to receive their salaries (Article 67).
- If and when they do face deportation or other immigration decisions they have the right to free legal assistance if they cannot afford it themselves (Article 86).

The measures within the Migration Law discourage the facilitation of irregular migration and the employment of migrants without the proper documentation. However, by extending the chance to claim back money that their employers owe them and the possibility of regularising their immigration status the law also encourages migrants who have been trafficked or subjected to exploitation to come

forward and cooperate with the authorities.

The regulations for the new migration law have not been passed yet which is a serious problem as these regulations will detail how the law should be implemented and by which authorities. This means that in practice many officials are still operating the old regulations.

## 2.6 Conclusions

Despite the many positive initiatives outlined above, it remains the case that some three years after Argentina ratified the UN Protocol on trafficking it is still not in compliance with this international standard. It has no law which specifically defines and penalises trafficking in persons and there is no specialised assistance available to trafficked persons. There are also a worrying number of cases in which the police are implicated in trafficking.

These factors are pivotal in explaining the rise in internal and cross-border trafficking in recent years and lack of effective prosecutions for trafficking. The Government therefore needs to approve the draft law for the Repression of Trafficking in Persons and Assistance to its Victims as a matter of priority. In implementing this law it must ensure that all allegations of complicity or direct involvement in trafficking by public officials are rigorously investigated and, when proved, appropriately punished.

Prosecutions will be facilitated by greater awareness of the problem amongst the general public and by training public officials, including the police, immigration, and judiciary.

Appropriate assistance is not currently available to people who have been trafficked and the Government needs to set up the National Programme for the Prevention and Assistance of Victims of the Trafficking in Persons and Sexual Exploitation and provide it with the appropriate budget to ensure it can deliver the required services.



Finally the new regulations outlining how the 2004 Migration Act should be implemented need to be passed. These will assist in preventing the trafficking and exploitation of migrant workers.

## 3. The commercial sexual exploitation and sale of children

### 3.1 Child prostitution

In 2001, UNICEF carried out a study on the commercial sexual exploitation of children in Argentina in which it concluded that the problem is not restricted to one region or area, but rather a generalised problem affecting the whole country.<sup>27</sup>

More than four years after this research was completed, there continues to be a lack of detailed research and systematic data collection regarding the commercial sexual exploitation of children. Even when officials recognise the problem, they generally do not have statistics or have only registered a small number of cases. For example, in Formosa, officials confirmed the existence of child prostitution in the provincial capital, Clorinda and Barrio Eva Perón, but they have not documented individual cases.

However, the available information does support the conclusion that the problem is a national one. ILO research into sexual exploitation of children in the triple frontier region between Argentina (province of Misiones), Brazil and Paraguay estimated that there were some 3,500 children in the area who were suffering sexual violence

in 2002 (this includes those in commercial sexual exploitation and those abused in their homes).<sup>28</sup>

In Buenos Aires, the Council for the Rights of Children and Adolescents (CDNNyA) documented 98 cases from four different sources involving commercial sexual exploitation of children in 2003. This figure was up from 71 cases recorded in 2002. One of these sources, the centres for assistance and advice (red de defensorías zonales), saw cases of children who were victims of sexual exploitation rise from 10 in 2003 to 52 cases in 2004.<sup>29</sup>

In Tucumán, the NGO Fundación Adoptar, which runs the Linea 102 free telephone advice line for children, drew up a list of 40 brothels in the area which it says offer sex with minors. In the province of Córdoba, an NGO claims that more than 300 girls are sexually exploited in the city of Río Cuarto alone.<sup>30</sup>

Reviewing the number of children in street situations in Argentina also provides an indication of how many children may be subjected to commercial sexual exploitation. Children in street situations are those that are working on the street, but retain links with their families, as opposed to those children who live permanently on the streets. A study of children in street situations in Latin America found that 65 per cent are involved in prostitution (15 per cent survived through prostitution while 50 per cent were irregularly involved in prostitution).

If these percentages hold true for Argentina then the number of children in commercial sexual exploitation will be very significant. For example, one agency (Dirección General de la Niñez, CAINA) provided integrated

<sup>27</sup> Silvia Chejter, *La niñez prostituída. Estudio sobre la explotación comercial infantil en Argentina*, UNICEF, Buenos Aires, October 2001.

<sup>28</sup> ILO-IPEC, *Investigación y Estudio en la Zona de la Triple Frontera*, 2002. Quoted in Consejo Nacional de Niñez, Adolescencia y Familia (CONNAF), *Investigación sobre Tráfico de Niños, Niñas y Adolescentes con fines de Explotación Sexual, Pornografía Infantil en Internet y Marcos Normativos*, República Argentina, Buenos Aires, 2004.

<sup>29</sup> CONNAF, *op.cit.*, pages 39-41 and Virginia Messi, *Turismo sexual con chicos*, *Clarín*, 18 September 2005.

<sup>30</sup> CONNAF, *op.cit.*, page 29.

assistance to 1,293 children (up to and including 18 year olds) who were in street situation in Buenos Aires in 2003. The total number of children in street situations in the capital would be much larger than this. In the province of Santa Fe, the city of Rosario alone documented a total of 618 children in street situation in 2003.<sup>31</sup>

### 3.2 Other forms of commercial sexual exploitation and the sale of children

Research carried out by Inda Klein regarding child pornography on the internet provides further information about child exploitation. The research was carried out almost exclusively from internet cafes and focussed on paedophile networks in Argentina and/or Spanish language sites.<sup>32</sup>

In the course of the research 15 internet groups were identified and monitored for between 10 and 15 days. The number of users in these groups varied between 12 and 500 people. Through these groups the researcher was given access to 662 photographs of child pornography (71 per cent of the children photographed were boys).

The research also accessed websites and subscribed to one programme (out of many) which allowed users to download photographs or videos of child pornography. This one programme provided 1,294 videos or photos following a 10 minute search under the heading “paedophilia”.

The research shows that filters that are supposed to stop individuals accessing these sites are not effective. It also concludes, from communications the researcher had with paedophile group members, that those using

child pornography on the internet had an interest in having sexual contact with children and that a relationship exists between child pornography on the internet, child prostitution and sex tourism.

Cases of sex tourism in Argentina do exist, but there are no figures as to the scale. Two associations working with the tourism industry (Cámara Argentina de Turismo and the Asociación Femenina de Ejecutivas de Empresas Turísticas, AFEET) undertook research in July 2004 to evaluate the scale of the problem. They sent surveys to relevant organisations and received 48 responses, out of which 29 considered that sex tourism did take place in the tourist cities of Argentina. Some 60 per cent were aware of the campaign against child sex tourism that AFEET is involved in, but nearly two thirds said they did not know where to report individual cases.<sup>33</sup>

Fundación Adoptar has brought a case before the Federal Court in the Province of Santiago del Estero regarding the sale and trafficking of babies from the Hospital Regional de Añatuya. Fundación Adoptar received various calls via Linea 102 relating to this issue and obtained video evidence of mothers who have sold their babies in exchange for the construction of part of their houses.<sup>34</sup>

Officials and judges confirmed off the record that trafficking of babies does exist in the northern provinces of Argentina. According to testimonies from those arrested, a child can be sold for between US\$1,500-5000, with the child often going abroad.

Although there are periodic reports of trafficking for organs, particularly in the media, no evidence has been provided to date to prove that this is taking place.<sup>35</sup>

<sup>31</sup> CONNAF, *op.cit.*, pages 44-46.

<sup>32</sup> The research was carried out between June and July 2004. For the details of this research see Chapter II of the CONNAF report, *op. cit.*

<sup>33</sup> CONNAF, *op.cit.*, page 82.

<sup>34</sup> [Argentina: Tráfico de bebés y graves vulneraciones de derechos de niños en Añatuya](#), Alianza Por Tus Derechos, 5 December 2005.

<sup>35</sup> For example, one article highlights the possibility that the disappearance of 300 psychiatric patients in four months from the Instituto Open Door could be linked to organ trafficking. [Tráfico de Organos en Argentina?](#) 1 December 2005, Alianza Por Tus Derechos.

### 3.3 Government response and conclusions

Various government departments and agencies are involved in initiatives to combat the sexual exploitation of children. A National Plan of Action against the Commercial Sexual Exploitation of Children was approved in 2000 which outlines areas for action including awareness raising, training, strengthening networks, identifying those in situations of risk and reviewing legislation and judicial practices.<sup>36</sup>

The National Council for Children and the Family (Consejo Nacional de Niñez, Adolescencia y Familia del Ministerio de Desarrollo Social) set up a programme in October 2002 to prevent child sexual exploitation and it also runs a Commission on child sexual exploitation (Comisión de Trabajo Intersectorial sobre Explotación Sexual Infantil) which brings together various government departments and institutions with inter-governmental and non-governmental organisations.

The Ministry of Work, Employment and Social Security (Ministerio de Trabajo, Empleo y Seguridad Social) has finished a project to remove children from sexual exploitation in Puerto Iguazú and the surrounding area in Misiones, provide them with assistance and work for the long term prevention and eradication of sexual exploitation in the area.

In 16 of the provinces, specialised centres exist for attending to the needs of children and in 14 of the provinces free 102 telephone lines operate for the reporting of any crimes against children or women and for accessing advice and information, including issues of commercial sexual exploitation.

The Penal Code currently includes several offences which can be used to prosecute those exploiting children. For example, it prohibits the corruption of children (Article 125), the prostitution of children (Article 125 bis and 127), the trafficking of children (Article 127 bis and 127 ter) and kidnapping children (Articles 146 and 147). Offences like the promotion or facilitation of child prostitution carry maximum sentences of between 10 and 15 years, depending on the age of the victim.

However, the existing legislation does not appear to be properly enforced. Few cases involving sexual exploitation of children go to criminal courts. In the period between 2000 and 2003, there were only 210 sentences for the crimes of corruption and prostitution of children in Argentina. Just four sentences were passed in Misiones and Tucumán combined, where the information cited above clearly indicates a serious problem.<sup>37</sup>

In the city of Buenos Aires, CDNNyA carried out research regarding the number of sentences given for the crimes of corrupting a minor, facilitating and promoting prostitution, reduction to servitude and the trafficking of people between 1993 and 2004. In this period, only 36 sentences were passed in relation to these crimes in seven different tribunals. Again the information cited above suggests that, at an absolute minimum, many hundreds of children would have been subjected to these crimes in Buenos Aires during these 11 years.

It does appear that, despite the Government's programmes and action plans, little priority is given to tackling this problem at a local level. Part of the reason for this may be that officials do not see the issue as a serious crime.

<sup>36</sup> The National Plan for the Prevention and Eradication of Child Labour also includes a section on the need to strengthen national institutions and reinforce existing legislation in order to tackle commercial sexual exploitation of children. The Plan was approved by the National Commission for the Eradication of Child Labour (CONAETI) on 31 October 2002.

<sup>37</sup> CONNAF, *op. cit.*, page 34.

UNICEF's research showed that there is a well organised system for recruiting and coercing children into sexual exploitation in bars, hotels, flats, cabarets, saunas and on the streets.<sup>38</sup> Yet individuals still see the child as a prostitute rather than as a victim of child sexual exploitation. In other cases, officials describe the problem as being isolated cases or consider that the problem does not exist in their area or, conversely, dismiss the issue as one that has always existed. Corruption and involvement of police in trafficking and prostitution may also play a role in the low prosecution rates (see trafficking section for more details).

Another factor to consider would be the background of the children themselves. Extreme poverty, family breakdown, little access to health services and education are commonly cited as key issues contributing to the sexual exploitation of minors, particularly in rural areas.<sup>39</sup> Children coming from this sort of environment are unlikely to be aware of their rights and reluctant to make complaints to officials. Some children will actively want to avoid the authorities for fear of being arrested or of being placed in state institutions, which many view more as detention centres than places for support and assistance.

Some of these issues can be dealt with through training and raising awareness amongst officials and the general public regarding the seriousness of this type of human rights violation.

The information currently available points to a steady increase in the number of children affected, which may require an institutional response which directly targets commercial sexual exploitation of children. At the moment projects usually provide general

support to children in vulnerable situations or suffering from domestic violence, rather than specialised assistance for those in commercial sexual exploitation.<sup>40</sup>

One notable exception to this is the campaign run by CDNNyA, UNICEF and other members of civil society which aims to raise awareness and mobilise the general public against the sexual exploitation of children. The campaign highlights the fact that "without clients there is no child prostitution" and encourages individuals to use the free 102 telephone line or one of the 17 Defensorías Zonales de Derechos de Niñas, Niños Y Adolescentes in the capital to get advice and assistance or report cases of sexual exploitation.

The lack of detailed and standardised information also needs to be addressed through systematic recording of data regarding sexual exploitation of children. This needs to be held centrally so that one government department can co-ordinate policy and, where necessary, follow-up on individual cases.

<sup>38</sup> During the research 83 children involved in prostitution were interviewed, of whom, 25 were under 13 years old and 44 were between 13 and 15 years old. Quoted in CONNAF, *op. cit.*, page 70.

<sup>39</sup> [Argentina: La pobreza condena a los menores de la Triple Frontera a ofrecer sus cuerpos por monedas](#), 12 December 2005, Alianza Por Tus Derechos. Sources: *Clarín*, TELAM, *La Nación*, UNICEF and *Periodismo Social*.

<sup>40</sup> For further information of the different programmes being run in different provinces of Argentina, see CONNAF, *op.cit.*, pages 97-102.

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Anti-Slavery International would like to thank the European Commission for funding this project.

The views herein are those of Anti-Slavery International and in no way reflect the opinion of the funder.



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