



July 2006

Information on Peru

Compliance with ILO Convention No.29 on Forced Labour (ratified in 1960)

Forced labour in the Amazon and in domestic work

Forced labour in the Amazon

In recent years the increased global price of luxury hardwoods, such as mahogany and cedar, has led to an intensification of the exploitation of Amazon timber. The International Labour Organization (ILO) estimates that profits from illegal logging alone are valued at US\$75 million.¹ The majority of illegal logging takes place on land owned by indigenous communities.

Both indigenous people and *mestizos*² are subject to forced labour in logging. The ILO estimate that 33,000 people are forced to work in the Peruvian Amazon, with the main areas being Ucayali, Madre de Dios, Loreta, Pucallpa, Atalaya and Puerto Maldonado.³

There are two main forms of forced labour in logging activities in the Amazon: the first where the indigenous communities are contracted to provide timber from their own land and the second where the timber bosses hire indigenous and *mestizo* men to work on their camps. Both forms employ deception to entrap workers in a cycle of debt and servitude, that can be passed on from one generation to the next.

Forced labour of indigenous communities

Timber company bosses are able to exploit the labour of indigenous communities to extract the valuable timber without actually controlling the land. Middlemen approach indigenous communities and offer them advances in the form of basic goods, public goods (such as building a school or playing field) or money. These advances form part of a verbal or written contract whereby the community agrees to provide the middleman with an amount of timber of a specified quality, although usually the contract does not detail the price of the timber.⁴

The middlemen charge excessively high prices for the goods whilst under-valuing the timber. When the indigenous workers return with the agreed quantity of timber they

¹ Alvaro Bedoya Silvia-Santisteban and Eduardo Bedoya Garland, *El Trabajo Forzoso en la Extracción de la Madera en la Amazonía Peruana*, ILO, Geneva, March 2005, page ix.

² Mestizos are people of mixed indigenous and European descent.

³ Alvaro Bedoya Silvia-Santisteban and Eduardo Bedoya Garland, *op. cit.*, page ix.

⁴ Alvaro Bedoya Silvia-Santisteban and Eduardo Bedoya Garland, *op. cit.*, page 5.

are told that it is of inferior quality and not worth as much as agreed, therefore in order to receive their money they must provide more timber.

Concurrently, the workers are accumulating debts with the middlemen by purchasing food and basic goods from them at three to five times the market price. The middlemen repeatedly postpone final payment on delivered timber whilst continuing to under-value it thereby increasing the debt incurred by the communities. Additionally, the communities' "contracts" often state that they are not allowed to sell their timber to or work for anyone else. Thus the communities gradually find themselves trapped: they are increasingly indebted to the middlemen and underpaid for timber, and do not have the capacity to seek work or money from elsewhere to pay them back. Middlemen can exploit this situation by demanding that the debt be repaid by providing free labour at logging camps. In this way the initial advance is a mechanism to trap free labour and convert it into forced labour.

Forced labour on logging camps

The ILO estimates that a third of all forced labour in logging in the Amazon takes place on logging camps. Approximately 75 per cent are *mestizos* from cities in the highlands and on the coast, whilst 25 per cent are indigenous, recruited from the local or neighbouring areas. In some cases, local indigenous leaders are contracted to recruit men from their communities and in rare cases armed groups have been known to capture indigenous men and force them to work in the camps.⁵

As with the entrapment of indigenous communities, a cycle of indebtedness is created by the payment of an advance and subsequent purchase of food and basic goods from the camp store. The goods are sold at inflated prices whilst the workers also pay accommodation and medical costs, as well as interest on their debt.

The camp bosses employ various methods to control the workers; from the use and threat of violence (camp guards are usually armed) to the retention of documents and wages. Compounded by the fact that the camps are in extremely isolated parts of the Amazon, escape is virtually impossible.

Workers are often not paid until the end of the season, when they are told that their debts are greater than their earnings over the season and they will have to return next season to pay off the outstanding debt.

In one case, middlemen for a logging company presented leaders of the Cashibo-Cacataibo indigenous community in Sinchi Roca with chainsaws, machetes and boots in return for the "permission" to transport 20 members of the community- men, women and children- to a logging camp. Once there, the workers were prohibited from leaving the camp and received payment in the form of tins of tuna and other basic items. Despite difficulties in denouncing the crime, in December 2001 the Ministry of Labour (Ministerio de Trabajo) were able to free the captive workers on the basis of evidence given to them by other members of the community.⁶

⁵ Alvaro Bedoya Silvia-Santisteban and Eduardo Bedoya Garland, *op. cit.*, page xi.

⁶ Alvaro Bedoya Silvia-Santisteban and Eduardo Bedoya Garland, *op. cit.*, page 13.

Failure of existing legislation and the Government's response

The 1993 Constitution prohibits slavery, servitude and trafficking of human beings in all its forms, (Article 2, no. 24). It also states that no one should be made to work without giving their consent and without reward, which should be fair and sufficient (Article 24). These constitutional norms, however, are not enshrined in legislation.⁷

There is very little in current legislation or the Penal Code that refers to slavery or forced labour. One labour regulation refers to the necessity of voluntary will when contracting labour⁸ and one article in the Penal Code refers to “crimes against the freedom to work”.⁹ These measures are wholly inadequate for dealing with the practice of forced labour.

The National Inter-Sectoral Commission for the Eradication of Forced Labour (*La Comisión Nacional Intersectorial para la Erradicación de Trabajo Forzado*)¹⁰ has proposed the creation of a specific law focused on forced labour that will tackle the issue holistically, focusing on all the activities that are involved in forcing people to work, including entrapment and the creation of a cycle of debt.

Interviews carried out by the ILO demonstrate that the authorities are aware of the problem. In Madre de Dios, an official of the Commission against Illegal Logging in the Ministry of Agriculture (*Comisión de Lucha contra la Tala Ilegal del Ministerio de Agricultura*) has photographic evidence confirming the existence of illegal camps in the indigenous territories. A study in 2003¹¹ found that in just one district in Madre de Dios, 92 per cent of the 261 camps in the area were on land of isolated indigenous communities. The ILO also spoke to a number of officials from the Ministry of Labour and the Anti-Logging Police who confirmed knowledge of the system of debt and high prices charged for food and basic goods¹². However, most officials did not regard this practice as forced labour, rather a system of poor labour conditions.

The Government has recently accepted the ILO's findings in its forced labour report and recognises the existence of forced labour in the Amazon. They accept the report's findings on methods of recruitment and entrapment, as well as the figure of 33,000 forced labourers in the Amazon.

In June 2005, the National Commission was established to tackle the issue. It is made up of the ministries of labour, agriculture, energy and mining, interior, justice, women and social development, and the national ombudsman.

A National Plan of Action for the Eradication of Forced Labour was published in

⁷ Although Article 55 of the Constitution ratifies ILO Conventions 29 and 105 to form part of national legislation, the legal framework does not exist to typify forced labour as a criminal offence with sanctions or provide a means for reparations for forced labourers.

⁸ The same labour regulation also recognises the right to remuneration, although it states that this can be in money or in kind and does not specify the minimum that should be paid in cash.

⁹ This article refers to the use of threats and violence with the result of making someone provide free labour with absolute lack of any payment.

¹⁰ From hereon referred to as the Commission.

¹¹ Schulte-Herbruggen Bjorn and Hefried Rossiter, *A Sociological Investigation into the Impact of Illegal Logging Activity in Las Piedras, Madre de Dios, Peru*, London, 2003.

¹² Alvaro Bedoya Silvia-Santisteban and Eduardo Bedoya Garland, *op. cit.*, page 11.

November 2005. The Plan highlights the lack of knowledge and information available to the local population, as well as the role of local and regional authorities in recognising and preventing forced labour. The Plan outlines the factors that lead to forced labour as being extreme poverty, very low population density in the Amazon, a lack of labour markets, a lack of credit, a lack of state presence, impunity, and a lack of knowledge regarding timber markets and prices. The Plan also identifies indigenous populations as the most vulnerable and therefore requiring special attention from the Commission. The key components in the Plan are legislative reform, institutional reform, building capacity of vulnerable groups, awareness raising, training of authorities, employers, workers groups, civil society and local populations, and further investigations into the other forms of forced labour.

Conclusions

The Peruvian Government's acceptance of the ILO report on forced labour and the creation of the National Commission on Forced Labour and the National Plan of Action are positive steps forward in combating forced labour.

However, there are concerns regarding how the Plan will be implemented. The Commission does not have any permanent staff or funds dedicated to carry out the National Plan. It relies very heavily on the ILO to provide the technical assistance, as well as to access the financial support necessary. Changing entrenched practices in remote parts of the country will require substantial resources over a significant period of time. The Government must provide funding for the National Plan through its national budget and make combating forced labour a national priority.

The Government has been aware of the issue of forced labour for ten years now and must move forward swiftly to deal with the issue. Legislative and Penal Code reform are critical elements of the Plan, and should be implemented now. However, the Plan still talks in terms of assessing the viability of changes to the law. It is imperative that the Government carries out these analyses as soon as possible and puts together a timetable for changing legislation and the Penal Code. These reforms should include establishing a legal definition of forced labour and specific labour regulations to regulate the sectors and activities where forced labour is present. These laws must then be rigorously enforced.

The Government has yet to consider the issues of rehabilitation and compensation for forced labourers, both of which are absent from the current National Plan. These elements are key to any plan that wishes to eliminate the practice permanently and prevent workers from becoming forced labourers again at a later date.

Domestic work

The factors that define forced labour often exist in the case of domestic workers: the threat and/or use of violence to control the worker; lack of freedom of movement; and an inability to leave the job. These are combined with other human and labour rights violations, such as lack of payment (regular or otherwise).

Domestic workers, living and working in the homes of their employers, are a largely invisible and powerless sector of society and therefore vulnerable to exploitation. The

majority of domestic workers are girls and young women. Many of them have never left home before, are inexperienced in the world and implicitly trust their employers.

At the national level, it is estimated that there are 300,000 domestic workers, of which 110,000 are under 18. However, it is possible that these figures heavily underestimate the real figure of domestic workers as it does not include people working for their own families. The Census is carried out on a Sunday, when many domestic workers are not in the house so they are uncounted for. Also the Census does not record the number of domestic workers working for their close or extended family.

Many domestic workers are indebted to their employers. Deductions are made from their salaries for food, accommodation, medical costs and breakages that occur in the house. As their salary will not cover all expenses they often find that they do not receive any money at all.

It is very common for employers to keep hold of domestic workers' official documents. Thus, employers are able to establish very strong control over their employees, for without any money or identity documents it is virtually impossible for domestic workers to leave their employer's house and escape. In Peru, every citizen is obliged to carry their identity documents with them and show them when required to do so by officials. Domestic workers risk being arrested by the police for failure to show their identity cards when asked, and sent back to their employer.

Other control mechanisms employed include prohibiting domestic worker from leaving the house or maintaining contact with family and friends. This isolation greatly increases the risk of abuse.

Even if domestic workers were able to return home, many would not feel able to as they would have no means of earning a living in their own villages and would be unable to help support their families.

During interviews carried out by Anti-Slavery International, one prominent NGO working with domestic workers highlighted that the domestic worker is also further trapped because she is not able to simply pack up her things and leave. She has to first go to the police station, file her complaint and return to the house with the police to collect her things. Given that the domestic worker knows that if she returns home with a policeman it is likely she will be accused of stealing, it becomes extremely difficult for her to leave. Given the extreme inequalities that exist in Peruvian society and the very low status awarded to domestic workers, the police usually believe the word of the employer over the word of the domestic worker and oblige her to return home with her employers or threaten to prosecute her.

The Domestic Workers' Act 2003 (*La Ley de los Trabajadores del Hogar*) recognises certain rights and benefits for adult domestic workers, such as an eight hour working day, days off on all public holidays, 15 days paid vacation a year and a salary bonus in July and December. The law also states that there must be a contract between employer and domestic worker; however this agreement can be written or verbal. Therefore, in cases of disagreements between the employer and worker it becomes a matter of their words against each other. The law remains largely dormant, with very few domestic workers aware of their rights and few employers concerned about their

responsibilities to their workers under the law.

Conclusions

Although there has been some interest in the issue of domestic workers in the last decade or so, progress has been slow due to the private sphere the workers inhabit and the prevailing attitudes of mainstream Peruvian society towards the treatment of domestic workers. However, in November 2005, the National Commission for the Eradication of Forced Labour recognised domestic work as a forced labour practice and agreed to investigate the issue with research findings and recommendations to be published by the end of 2006.

The Commission needs to move beyond simply investigating the issue to outlining a timetable for a programme of legislative change and institutional reform so that domestic workers become a focus of government policy, with a specific government department responsible for implementing change and guaranteeing domestic workers their rights.

The Government must also take a firmer role in enforcing the Domestic Workers Rights Act and ensure that domestic workers are guaranteed the working conditions and rights enshrined in law. The Government needs to train and strengthen state and local institutions such as the police, judiciary and local governments in understanding and implementing the law, in order to protect domestic workers. Domestic workers must be registered and in full possession of their documents, as well as their salaries. Although difficult to monitor, the Government must ensure that domestic workers have access to the correct support and information services so that they are fully aware of their rights, the law and resources available to them.