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Information on Costa Rica

Compliance with ILO Convention No.182 on the Worst Forms of Child Labour (ratified in 2001)

Child domestic workers in Costa Rica

In Costa Rica thousands of children work as domestic workers. The vast majority are girls, performing work such as cooking, cleaning, washing, caring for young children and the elderly, and running errands. Motivated mainly by poverty, they work both in other people's homes and in their own, hidden from public view and are near totally-dependent on their employers. Unable to access the rights stipulated for them under national law, child domestic workers work long hours often for little or no pay, suffer physical, emotional and sometimes sexual abuse, and are often denied their right to education.

Scale of child labour and child domestic work in Costa Rica

According to the 2003 national study on work by children and young persons in Costa Rica, conducted by the National Statistical and Census Institute (INEC) and the Ministry of Labour and Social Security, in collaboration with ILO-IPEC and the Statistical Information and Monitoring Programme on Child Labour (SIMPOC), 113,500 girls and boys between 5 and 17 years of age are working, including around 49,200 children under the age of 15. Of the total working population of those aged between 5 and 17, some 5.9 per cent are domestic workers in other people's homes.¹ ILO-IPEC research in 2002 on child domestic work found that one in four girls (25.6 per cent) in Costa Rica is a domestic worker.²

Child domestic work as one of the worst forms of child labour

In 2008 the findings of a study was published in which Anti-Slavery International and its local partners undertook consultations with more than 400 current and former child domestic workers in over 20 locations in Africa, Asia and Latin America. In the many

¹ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Minimum Age Convention, 1973 (No.138) Costa Rica (ratification: 1976) Published: 2009

² R. Pisoni and D. Vartanian, *Child domestic work in Central America and the Dominican Republic (Regional Synthesis)*, San José, ILO-IPEC, 2002, p56, quoted in ILO-IPEC, *Helping hands or shackled lives? Understanding child domestic labour and responses to it*, Geneva, 2004, p21

individual interviews and group discussions which took place, child domestic workers provided an unparalleled insight into their situations, as well as presenting their views about the kinds of help and support they need most.³

In Costa Rica, where the partner agency for this study was the NGO Defensa de Niñas y Niños Internacional (DNI – Costa Rica), 35 child domestic workers and former child domestic workers were consulted in the capital city of San José and three smaller urban areas of Monteverde, Cartago and Turrialba. There were 31 girls and 4 boys. Approximately half were from Costa Rica and half were adolescent migrants from Nicaragua. The average age of entry into domestic service was 12-13 years old and the youngest was 10 years old.

Much child domestic work falls under the worst forms of child labour as set out in ILO Convention 182 for the reasons outlined below:

Exposure to harmful and hazardous working conditions

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 and are severely punished for their mistakes. Child domestic workers struggle with constant demands and responsibilities, often without the support of their family and friends.

A majority of the child domestic workers in Anti-Slavery International and DNI-Costa Rica's study lived separately from their employers, while a minority lived with their employers.

Child domestic workers who live with their employers can be "on call" 24 hours a day. They may be awakened in the middle of the night to tend to the needs of their employers. Throughout the study, live-in child domestic workers reported that their time off was very limited, if they were given any at all, and they did not see their family regularly.

Those who were living separately from their employers and were working full time were working an average of 10 hours per day, and sometimes considerably more since they had to be available whenever their employers needed them.

In both live-in and live-out situations the child's working day usually has a set start time but no set finishing time, and hours are dependent on the needs and whims of the employers. Even in situations where there are notional start and finishing times, many child domestic workers described situations which suggest that they are always on-call.⁴

"I work by the hour. I have to arrive at six thirty in the morning and I have to be punctual. I sweep the floor, I dust the house, clean the toilet, do the washing up and iron everyone's clothes, I cook lunch, I have to watch the children when they come

³ J. Blagbrough, *They respect their animals more. Voices of child domestic workers*, Anti-Slavery International, London, 2008

⁴ J. Blagbrough, *They respect their animals more. Voices of child domestic workers*, op. cit, pp14-16

*back from school, I feed them, do the washing up and I leave dinner ready. The lady comes at around five. Then I can go home. I have to take two buses.”*⁵

Female child domestic worker, 15 years old, Manuel de Jesus, Cartago, Costa Rica.

Child domestic workers are extremely isolated. Employers control the child domestic worker's ability to stay in contact with family or friends and in many cases reduce opportunities for contact and discourage communication. Without any contact or support from parents and no supervision of employers or working conditions, children are extremely dependent on their employers and highly vulnerable to forced labour and abuse. Isolation is used by employers as a means to control children.

Work contracts and payment

Verbal agreements as opposed to written contracts are the norm for child domestic workers. For adolescents, agreements regarding pay and conditions are frequently negotiated directly with the employer, but this is often not the case for younger children, who have only the sketchiest knowledge of the agreement made between the employer and her parents. When agreements are verbal, domestic workers find it hard to seek redress when abuses occur.

*“I don't have a contract because the lady says that she is helping me, I don't have holidays either”*⁶

Child domestic worker, 16 years old, Cartago, Costa Rica.

Low pay or no pay is reported to be the norm. Despite doing broadly the same work, younger child domestic workers are routinely paid less than their adolescent counterparts - and in many cases were paid only in-kind. In many locations it was reported that salary deductions were regularly made by employers for broken or lost household items. In many cases payment for the work done by the child was passed directly to the child's parents.⁷

*“I get 50,000 colones per month (USD\$95) and I work 10 hours per day. I don't know if it is good or bad but I give money to my mum and with the rest I buy my things.”*⁸

Child domestic worker, 15 years old, Coronado, Costa Rica.

Exposure to physical, psychological and sexual abuse

Child domestic workers are frequently subjected to verbal and physical abuse at the hands of their employers, including shouting, scolding, insults and physical violence. During Anti-Slavery International and DNI – Costa Rica's consultations, child domestic workers spoke of their vulnerability to sexual abuse by their employers, or the employers' children, relatives, neighbours or friends.

Lack of opportunities for education

⁵ J. Blagbrough, *They respect their animals more. Voices of child domestic workers*, op. cit, p13

⁶ J. Blagbrough, *They respect their animals more. Voices of child domestic workers*, op. cit, p16

⁷ J. Blagbrough, *They respect their animals more. Voices of child domestic workers*, op. cit, pp17-18

⁸ J. Blagbrough, *They respect their animals more. Voices of child domestic workers*, op. cit, p17

Many child domestic workers attach great importance to education and see their entry into domestic service as a way of getting an education. In reality their situation is more often than not a serious obstacle to studying. Some 35 per cent of the child domestic workers interviewed by the ILO-IPEC Rapid Assessment in Costa Rica did not go to school.⁹

In some cases this is simply because employers do not allow them to go to school - or renege on an initial agreement to do so. In other cases, even when child domestic workers are allowed to go to school, the long working hours and requirements of their job made it impossible to take it up.

Child domestic workers often have problems when they are able to attend classes, either because they are too tired to study because of the burden of housework they also have to carry, or because they are distracted by the opportunity to finally be able to meet other children.

During Anti-Slavery International and DNI – Costa Rica’s consultations, child domestic workers spoke of the need for schools to be made more accessible for children who are combining work with study. They identified the cost of attending school as too high, because of the requirement to buy books, uniforms and other school equipment and pay school fees and charges to take examinations.¹⁰

Vulnerability to trafficking and debt bondage

Many child domestic workers can be said to have been trafficked, although the term often belies the complex ways in which children end up in domestic service, and the different roles and motivations of recruiters in the process.

In Costa Rica, 250 children were interviewed for the 2002 ILO-IPEC Rapid Assessment survey on child domestic work. Almost half the children in the sample – 104 children – were below the minimum working age. Just over 18 per cent of the children (46 children) were from Nicaragua and 12 of these were undocumented migrants. Less than half the group (21 children) had legal residence. There are potentially, therefore, victims of trafficking in this group, where relocated children are in a situation of exploitation. The majority of the children (129 children) had been recruited directly by their employers. Fifty two of the children had been placed through family members; 30 were working for family members. Thirty seven had sought employment themselves, one had been recruited through a private agency and one had been placed through the church.¹¹

Some child domestic workers in Costa Rica are in bonded labour, working to pay off a debt that their parents have incurred. This arrangement is normally facilitated by a third party who acts as an intermediary between the parents and the employers.

⁹ ILO-IPEC, *Child domestic work in Central America and the Dominican Republic*, op. cit, quoted in ILO-IPEC, *Helping hands or shackled lives? Understanding child domestic labour and responses to it*, op. cit, p45

¹⁰ J. Blagbrough, *They respect their animals more. Voices of child domestic workers*, op. cit, pp31-32

¹¹ ILO-IPEC, *Helping hands or shackled lives? Understanding child domestic labour and responses to it*, op. cit, p45

The legal framework and governmental response

Costa Rica has ratified ILO Conventions No. 138 on the Minimum Age, No. 182 on the Worst Forms of Child Labour, and No. 29 on Forced Labour.

ILO Conventions No. 138 and No. 182 have been incorporated into Article 7 of Costa Rica's Constitution and have the highest precedence over national law. A Constitutional Court case declared them to be constitutionally superior in status.¹²

After the ratification of Convention No. 182 the Government analyzed existing statistical data on child labour from the 2000 National Census. In 2002, the Child and Adolescent Labour Enquiry took place. In 2003, the national study on work by children and young persons in Costa Rica conducted by INEC and the Ministry of Labour and Social Security in collaboration with ILO-IPEC and SIMPOC was published.

The worst forms of child labour as defined in Article 3, paragraphs a) to c) of Convention No. 182 are the remit of two Governmental bodies, the National Institute for Children (*Patronato Nacional de la Infancia- PANI*), the National Commission Against the Commercial Sexual Exploitation of Children (*Comisión Nacional contra la Explotación Sexual- CNES*). The types of work referred to in Article 3, paragraph d) ("work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children") are determined by the Ministry of Labor and Social Security (*Ministerio de Trabajo y Seguridad Social- MTSS*) and the Office for the Eradication of Child Labor and Protection of Adolescent Workers (*la Oficina de Atención y Erradicación del Trabajo Infantil y Protección al Trabajador Adolescente- OATIA*).

In 2005, a draft Law for the Prohibition of Dangerous and Unhealthy Labour of Adolescent Workers was presented to the Legislative Assembly. (*Proyecto de Ley Prohibición del Trabajo Peligroso e Insalubre para Personas Adolescentes Trabajadores*). If approved, the law would prohibit work by adolescents (those aged between 15 and 17 years old) of more than six hours per day; using dangerous machinery; that exposes them to physical, psychological or sexual abuse; which prevents the right to an education; and work during the night. It would also prohibit domestic work where the adolescent is required to sleep in the place of work or stay there after the working day has ended. At the time of writing, the law had not been passed by the Legislative Assembly.

In 2005, a draft Law on Domestic Work (*Proyecto de Ley sobre Trabajo Domestico*), was presented to the Legislative Assembly. If approved, the law would amend the Code of Childhood and Adolescence (*Código de la Niñez y Adolescencia*). Under this draft law, domestic work is considered to be one of the worst forms of child labour depending on the conditions in which it is carried out. At the time of writing, the law had not been passed by the Legislative Assembly.

¹² Vote 139-97, cited by RODRIGUEZ "(...) the current human rights guidelines in force in Costa Rica not only have the same level of importance as the Political Constitution, but, given their function of bestowing more extensive rights and sureties to individuals, they therefore take precedence (...) over the Constitution itself."

The Government has put in place two National Action Plans to combat child labour. The first National Action Plan for the Prevention and Eradication of Child Labour and for the Special Protection of Adolescent Workers in Costa Rica (*Plan Nacional de Acción para la Prevención y Erradicación del Trabajo Infantil y para la Protección Especial de las Personas Adolescentes Trabajadores en Costa Rica*), which highlighted child domestic labour as an area for special attention, ran from 1998-2002. The second National Action Plan runs from 2005 to 2010.

Both National Action Plans highlight the need to identify and condemn the worst forms of child labour, prevent the involvement of children in the worst forms of child labour, release children from the worst forms of labour and ensure their rehabilitation and reintegration. They also highlight the need to pay special attention to younger children, specifically young girls, and to uncover instances of “hidden” work to which young girls are particularly exposed. In addition, the second National Action Plan also focuses on children from indigenous communities, since they are potentially the most vulnerable to the worst forms of child labour.

Costa Rica is participating in the ILO-IPEC project entitled “Elimination of child labour in Latin America”.

Conclusions and Recommendations

Despite the Government’s increased efforts towards tackling the worst forms of child labour, and within these efforts, addressing the plight of child domestic labourers, there are still a number of weaknesses in both law and practice which need to be resolved.

The Code of Childhood and Adolescence is the only law that currently protects child workers in the informal sector. However, the National Institute for Children, which is mandated to implement this law, lacks the necessary resources to do so.

Two draft laws which would increase legal protections to child domestic workers in Costa Rica, the draft Law for the Prohibition of Dangerous and Unhealthy Labour of Adolescent Workers and the draft Law on Domestic Work, remain waiting approval by the Legislative Assembly, despite being submitted over four years ago.

There is a lack of recent accurate data on the worst forms of child labour specifically. Since the 2003 national study on work by children and young people, the Government has not committed itself to finding new, more up-to-date data.

The elimination of child labour has not been a consistent priority for the Government and efforts have waned at particular points in time. Not enough resources have been allocated towards implementing the National Action Plans. There is also insufficient coordination between the different institutions and agencies that have responsibility for implementing policy and programmes on child labour. Many national organisations in Costa Rica fear that the current global economic crisis will further impact upon the political will and resources available for the eradication of child labour, both in terms of government focus and expenditure.

There is a pressing need to address the causes of child domestic labour. Poverty and invariably underlies a child's vulnerability to this form of exploitation, as children work to support themselves and help their family financially. Many become a domestic worker in the hope that it will enable them to pursue an education. Factors such as discrimination, social exclusion, family problems such as a family break-up or death also contribute, alongside the perception that domestic work is a 'safe' form of employment for children.

Several important issues emerged from Anti-Slavery International and DNI – Costa Rica's consultations with child domestic workers. Those who were consulted had clear messages about the best kinds of assistance to protect them from the daily abuse and exploitation that many of them endure. They called for opportunities to be made available for education and training; for assistance in seeking redress from abusive and exploitative employers; for the provision of services which cater specifically to the needs of child domestic workers; for services to be provided on a long-term basis and not pulled-out after just one or two years; for interventions to be developed which take into consideration some of the issues which most affect child domestic workers, for example, early pregnancy and the effect of HIV/AIDS; for more awareness raising about the situation of child domestic workers alongside the provision of concrete services; and for assistance in accessing the government and state infrastructure that can help them, such as enrolling in school and accessing health services.

The Government of Costa Rica is therefore 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.
- Prioritise the passage of the draft Law for the Prohibition of Dangerous and Unhealthy Labour of Adolescent Workers, and the draft Law on Domestic Work.
- Allocate the resources necessary to implement legislation relevant to domestic workers and child labourers, the Second National Action Plan for the Prevention and Eradication of Child Labour, and all other relevant programmes. The Government must ensure proper co-ordination between the institutions and agencies involved in delivering these.
- Create alternative education programmes that are inclusive and accessible for child domestic workers so that they are able to stay in education.
- Ensure the provision of specialised services for child domestic workers, such as specialised crisis centres.
- Raise awareness amongst child domestic workers about their rights under national law, the support services available to them, and the institutions that they can receive assistance from.
- Raise awareness in the communities of origin, particularly in rural areas from which many children migrate, about the risks associated to child domestic work.
- Raise awareness about the situation of child domestic workers amongst the general public, and especially employers.