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贩卖人口问题：特别是贩卖妇女和儿童问题特别报告员 Joy Ngozi Ezeilo 的报告

增编

对乌拉圭的访问* **

内容提要

2010 年 9 月 13 日至 17 日，贩卖人口问题：特别是贩卖妇女和儿童问题特别报告员应乌拉圭政府的邀请对乌拉圭进行了正式访问。访问的目的是要了解乌拉圭在打击人口贩运方面的法律和体制框架及政策，以及一些遗留的困难。

在本报告中，特别报告员着重指出了该国政府取得的积极进展，例如，政府颁布了制止人口贩运的本国法律，设置了处理为性剥削而贩运妇女问题的机构间圆桌会议，以及审理包括人口贩运在内的有组织犯罪问题的专门法院和检察官。

但是，特别报告员注意到了政府要有效杜绝人口贩运并保护受贩运的受害者人权而必须处理的一些难题。这些难题包括但并不局限于：缺乏有关人口贩运趋势的全面数据、各种杜绝人口贩运活动之间协调不力、对受贩运者缺乏身

* 本文件内容提要以所有正式语文分发。报告本身载于内容提要附件，仅以原文和西班牙文分发。

** 迟交。

份辨认和转交机制、为向受贩运者提供援助而专门设置的设施和服务不充分。
特别报告员根据这些情况向该国政府作了一些建议，以供进一步审议。

Annex

Report of the Special Rapporteur on human trafficking, especially women and children, Joy Ngozi Ezeilo, on her visit to Uruguay (13-17 September 2010)

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I. Introduction and methodology

1. Following an invitation by the Government of Uruguay, the Special Rapporteur on human trafficking, especially women and children, Ms. Joy Ngozi Ezeilo conducted a fact finding mission to Uruguay from 13 to 17 September 2010.
2. The Special Rapporteur would like to thank the Government for its openness and total cooperation, which allowed her to acquire information regarding the situation of human trafficking in Uruguay and the current legislation and policies to combat this human rights violation.
3. During her mission the Special Rapporteur met in Montevideo with the Minister of Foreign Affairs, the Minister of Labour and Social Security, and officials of the Ministry of the Interior, the Ministry of Tourism and Sports, the National Institute for Children and Adolescents (INAU, for its acronym in Spanish), the Ministry of Social Development, including the National Women's Institute (Inmujeres, for its acronym in Spanish) and the Ministry of Education and Culture, including its Director for Human Rights. Ms. Ezeilo further met with representatives of the National Police, including immigration officials, the police chief of Montevideo, and the INTERPOL office, the Captain of the Port of Montevideo, parliamentarians, a Minister from the Supreme Court of Justice and other members of the Judiciary Branch.
4. Ms. Ezeilo also travelled to the cities of Colonia, Paysandú and Young, where she met with local authorities such as the mayors of Colonia and Paysandú, local police forces and port authorities, local delegations of the Ministry of Social Development and the INAU and local judges and prosecutors. Finally, both in Montevideo and in other localities, the Special Rapporteur met with representatives of civil society, including non-governmental organizations, academics and lawyers.
5. The Special Rapporteur sincerely thanks the Resident Coordinator, her Office and the United Nations Country Team in Uruguay for the invaluable support provided prior, during and after her country visit to the country. Ms. Ezeilo would also like to thank the civil society representatives who provided her with information during the mission.

II. Main findings

A. Forms and manifestations of trafficking in persons

1. Trafficking for sexual exploitation

6. Uruguay has mainly been a country of origin for victims of trafficking. Women are trafficked for the purposes of sexual exploitation into neighbouring countries such as Argentina and Brazil, and particularly into Europe. There is clearly a consolidated network of traffickers who transport Uruguayan women to Europe, specifically to Italy and Spain, where traffickers seem well connected with local criminals and owners of bars, nightclubs and brothels.¹
7. Social awareness on the issue of trafficking for sexual exploitation in Uruguay rose in the early 1990s with broad media coverage when some cases involving a trafficking

¹ IOM, Estudio Exploratorio sobre la trata de personas con fines de explotación sexual en Argentina, Chile y Uruguay, 2008. p. 295.

network that sent Uruguayan women to Milan, Italy, were made public. Although these cases prompted some institutional responses and also generated great interest amongst the population, the issue gradually lost momentum and was then relegated in the public agenda.² The invisibility of this phenomenon is exacerbated by the lack of statistics or official estimations of the magnitude of the problem.

8. Trafficking networks operate by identifying potential victims from different localities in Uruguay, recruiting and “preparing” them before selling or transferring them again to other pimps in the network. This process sometimes begins within different localities, passes through Montevideo and is finalized abroad. If the trafficked persons are already sex workers, they are usually promised better pay and working conditions elsewhere. When potential victims are not in prostitution, they are usually offered jobs in administrative posts, at hotels or as baby sitters, through a recruitment process that includes “winning and dining” the victims to facilitate them accepting moving away.³ Through interviews carried out as part of an IOM investigation in 2006, 73 per cent of sex workers interviewed in Montevideo stated they had received offers to work abroad.⁴

9. The process previously described might not necessarily finalize with the victim being transferred abroad, revealing thus a situation of internal trafficking for sexual exploitation.

10. Women and children who are recruited in the interior of the country might end up being exploited in Montevideo or some of the touristic spots of the country such as Maldonado and, Colonia del Sacramento. According to information received, there is a trend to offer “high cost” sexual services in these cities by women who are not necessarily registered as prostitutes before the Uruguayan health authorities and that offer their services in a very exclusive and private way, which constitutes a risk of trafficking. There was also a possible case of trafficking in Maldonado in which young middle class women, who were students or women working outside the sex industry, had been working as prostitutes but forced to pay high fees to their recruiters.⁵

11. Although Uruguay is not usually identified as country of destination for victims of trafficking for sexual exploitation, border areas such as Concordia-Salto and Colón-Paysandú on the border with Argentina, and Livramento-Rivera and Yaguarón-Río Branco on the border with Brazil are reportedly entry points for Brazilian and Argentinean women temporarily offering sexual services in the country.⁶

12. A phenomenon of concern frequently linked to trafficking for sexual exploitation is the prevalence of child prostitution. Given that sexual exploitation of children is an illegal practice which is generally linked to organized crime, it is difficult to have an accurate estimate of the number of children involved. Most of the information available is drawn from press reports, and NGOs, but there is a lack of official information on this subject.⁷ This also makes it difficult to determine if these sexually exploited children are also victims

² Tuana, Andrea and Benedet, Leticia, “Abordajes institucionales hacia una política publica”, en *La trata de mujeres con fines de explotación sexual en el Uruguay*, Ministerio de Desarrollo Social, 2010, p. 43.

³ Petit, Juan Miguel, “Maldonado: sus nuevos desafíos. Un estudio sobre la migración y trata de personas en el este de Uruguay”, IOM 2008, p.38.

⁴ IOM, “Estudio exploratorio sobre la trata de personas con fines de explotación sexual en Argentina”, Chile y Uruguay, 2008.

⁵ OIM, op. cit. p. 257.

⁶ Ibid.

⁷ UNICEF, *Historias en el Silencio. Prostitución Infantil y Adolescente en Montevideo y Área Metropolitana/ Susana Rostagnol, Valeria Grabino, Montevideo, 2007, p. 31.*

of trafficking. In Uruguay prostitution is legal and the minimum age for the activity is 18 years of age. Brothels, discos and massage parlors are inspected to ensure that minors are not working there. If children are found, owners are fined and the establishments may be closed down. Criminal charges may also be established against any adults involved in the exploitation of children. Nevertheless, some interviewees claimed that, due to inefficiency, lack of resources or even corruption of officials involved in the search of such premises, owners sometimes get advance information and warning about imminent raids and would therefore hide minors being held in prostitution and sexually exploited.

13. There are specific vulnerability factors in the region that place children at a particular risk of becoming trafficking victims, such as poverty, homelessness, domestic sexual abuse, domestic violence and child labour.⁸ Children sometimes engage in prostitution to provide economic assistance to their families who allow or actively promote the activity. The Special Rapporteur was presented with some cases of child sexual exploitation in which common “push” factors such as poverty, social exclusion, school desertion and domestic physical and/or sexual violence strongly influenced the child’s engagement in sex work.⁹

14. In recent years Uruguay has experienced economic growth and has slowly recovered from the 2001/2002 economic crisis that affected the entire Southern-cone region. Certain localities linked to industrial activities and tourism, such as Nueva Palmira, Maldonado and Colonia, have seen economic recovery. Nevertheless, social development has been unequal and part of the population has remained excluded from the labour market and absent from the schooling system. It is precisely amongst these segments of the population that the most vulnerable children and adolescents may be found. In terms of child sexual exploitation, interviews revealed that certain sectors of the population see this as a problem that cannot be changed, that “nothing can be done about it”. In other cases the matter is perceived as something that is distant, affecting only the “poor”, “drug addicts”, and people with no work habits. Therefore, beyond the preventive programmes that are being implemented by the private and public sector, community action against this phenomenon should be enhanced.

15. Informants in cities such as Nueva Palmira and Young argue that demand is basically not generated by locals but by temporary populations such as truckers who pass through and shipworkers at the ports. There has only been social recognition of this problem through some police complaints and some media coverage of the problem, but institutional responses, including police action, have been slow and ineffective.

2. Trafficking for labour exploitation

16. There is a lack of accurate information to determine the prevalence rates, trends and manifestations of trafficking for labour exploitation in Uruguay. It appears to be a less visible problem than that of trafficking for sexual exploitation. Nevertheless, the Special Rapporteur was informed of increasing reports of exploitation of foreign workers in fishing vessels, citrus fields and the wood industry.

17. Given its stability and economic growth in the last few years, Uruguay has gradually become a country of destination, attracting larger numbers of economic migrant that could eventually become victims of trafficking for both sexual and labour exploitation. This risk is heightened by the prevalence of unregulated work and by limited labour inspections, particularly in the fishing and agricultural sectors.

⁸ Tuana and Benedet, *op. cit.*, p. 44.

⁹ UNICEF, *op. cit.*, pp.41-75.

18. A case made public in 2005 involved Chinese workers subjected to slave labour in a farm located in the locality of Canelones. They entered the country legally with documents to work in shipping companies in the port of Montevideo but upon arrival to the country were taken to the fields where they were forced to work under threat and with no salaries. This case involved the participation of corrupt immigration officers and, although the case was highly publicized and investigations were carried out, no one was tried and the victims were repatriated.¹⁰

19. The Special Rapporteur met with the Minister and other authorities of the Ministry of Labour and Social Security, who stated that no labour inspections, whether in vessels, fields or even in places of difficult access, had uncovered cases of trafficking in persons. The only irregularities found are related to health and safety issues or the registration of workers. They explained that sometimes foreign vessels come into the ports to make technical stops and the Ministry has no access to examine those ships where slave labor might happen. Workers sometimes are engaged to work at sea for a period of time that is later extended without pay and in terrible working conditions.¹¹

20. This was confirmed during a visit made by the Special Rapporteur to a shelter for poor migrants located in Montevideo, where the shelter manager reported cases of Indonesian immigrants who had been lodged in the shelter after being subjected to terrible working conditions in foreign fishing vessels stopping at Montevideo.

B. The legislative and institutional framework

1. Legislative framework

21. Uruguay has ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which supplements the Convention against Transnational Organised Crime¹² and other relevant human rights instruments including the Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol, the Convention on the Rights of the Child and its two Optional Protocols, and the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Uruguay has also ratified ILO Convention No. 29 on Forced or Compulsory Labour¹³ and Convention No. 182 on the Worst Forms of Child Labour.¹⁴

22. In terms of regional instruments, Uruguay is party to the American Convention on Human Rights, the Inter-American Convention on International Traffic in Minors¹⁵ and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belem do Para).

23. Uruguay has enacted domestic legislation against human trafficking, including the Immigration Law (Law 18.250/2008) which establishes penalties against both human smuggling (art. 77) and human trafficking (art. 78) and the Law on commercial and non-commercial sexual violence against children, adolescents and the disabled (Law

¹⁰ IOM, op. cit., p.254.

¹¹ According to interviews held with port authorities, the Uruguayan fleet is small and easier to control. National vessels do engage foreign workers, particularly Peruvians, but these are regular migrants whose working conditions should be the same as those of nationals.

¹² Uruguay ratified the Convention and the two complementing protocols on smuggling and trafficking through Law 17.861 of 28 December 2004.

¹³ Ratified through Law 16.643 of 8 December 2004.

¹⁴ Ratified through Law 17.298 of 15 March 2001.

¹⁵ Ratified through Law 16.860 of 9 September 1997.

17.815/2004). These two laws incorporate the definitions put forward both by the Palermo Protocol and by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

24. Other relevant legislation includes Law 17.060/1998 against corruption, Law 17.343/2001 which penalizes the laundering of money derived from activities such as procuring, organ trafficking and human smuggling, Law 17.514/2002 on the prevention, early detection, attention and eradication of domestic violence, Law 17.515/2002 on sex work, Law 18.104 on the equality in rights and opportunities for men and women, Law 18.026 which establishes intervention and reparation rights for victims of genocide, war crimes and crimes against humanity, and Law 8.080 on procuring and related crimes.

25. Child prostitution is penalized through the abovementioned Law 17.815/2004 and the Code of Childhood and Adolescence, which establishes the State's duty to protect children against child prostitution (art. 15), to protect the rights of the child (arts. 177 et al.) and also defines child pornography as a form of the mistreatment and abuse of children (arts. 130 et al).¹⁶

26. In terms of the Criminal Code, other crimes linked to human trafficking are penalized, such as conspiracy to commit a crime (art. 150), falsification of identity documents and passports (art. 242 bis), the use of false documents or certificates (article 243), procuring (art. 274.3), and a series of crimes against liberty including slave trafficking (art. 280), privation of liberty (art. 281), private violence (art. 288) and threats (art. 290).¹⁷

27. The Special Rapporteur also noted the existence of a law on domestic work (Law 18.065/06), which establishes the rights and regulates the working conditions of domestic workers; and a law on rural work (Law 18.441/09) which establishes, amongst others, a workday of 8 hours for rural workers.

28. Uruguay has ratified the relevant international and regional human rights instruments and this is reflected in the aforementioned domestic legislation on human trafficking and child exploitation. In the 2009, the Supreme Court of Justice, which is the highest instance in the jurisdictional order, has declared that international human rights treaties have constitutional rank in the national legal order. Nevertheless, there is still a lack of awareness of these international human rights instruments among administrators of justice, especially judges, resulting in their limited application in judicial decisions.

2. Institutional framework

29. The following institutions are involved in the fight against trafficking in Uruguay:¹⁸

(a) The Ministry of Social Development (MIDES, its acronym in Spanish) which is in charge of all policies relating to women, youth, family, older persons and persons with disabilities. The National Women's Institute of Uruguay operates within this Ministry and works towards the social, political economic and cultural inclusion of women, in order to guarantee their full citizenship;¹⁹

(b) The National Institute for the Child and the Adolescent (INAU), charged with the protection of the rights of children and with the identification and prevention of commercial and non commercial sexual exploitation;

¹⁶ Petit, op. cit., pp. 33-34.

¹⁷ Ibid., p. 33.

¹⁸ IOM, "Trata de personas: apuntes desde Uruguay sobre un desafío global", p. 31. Available at: <http://www.oimuruguay.org/attachments/article/47/Trata%20Uruguay.pdf>.

¹⁹ Unlike other women's institutes in the region, Uruguay's Inmujeres does not enjoy ministerial level.

(c) The Ministry of Public Health which runs a National Program for Gender and Women's Health and runs preventive clinics that monitor the health of sex workers throughout the country;

(d) The Ministry of Tourism and Sports which oversees the activities of travel agencies, transport companies and hotels, and is currently leading a campaign against sexual exploitation of children and sexual tourism in the country;

(e) The Ministry of the Interior which coordinates the work of the several police forces in the country, including the immigration and INTERPOL offices;

(f) The Ministry of Labour and Social Security which is in charge of carrying out the inspection of working places and their conditions;

(g) The Ministry of Foreign Affairs which has an office of consular affairs charged with assisting Uruguayans living abroad;

(h) The Ministry of Education and Culture which has a Direction for Human Rights in charge of disseminating knowledge of these rights and providing human rights education in schools.

30. In 2001 a National Committee to Eradicate Child Labour (CETI, its acronym in Spanish) was set up under the leadership of the Ministry of Labour and Social Security. The Committee is formed by several Government institutions, including the INAU and the MIDES, by the National Chamber of Commerce, labour unions and Civil Society Organizations. The Committee receives technical assistance from ILO, the Inter-American Children's Institute of the OAS and UNICEF. Specific criteria have been established by the INAU to identify dangerous child labour and inspectors from the Ministry of Labour have reportedly received training to identify these situations.²⁰

31. On 15 May 2007 the First National Plan on Equality of Rights and Opportunities for Women (2007-2011) was launched in Uruguay, establishing as one of its strategic lines the development of measures to protect women and children against human trafficking and smuggling. The National Women's Institute of the Ministry of Social Development (Inmujeres) was designated the leading institution to coordinate these efforts in coordination with other Government agencies and civil society organizations.²¹

32. In 2008, the Inter-institutional Roundtable to address trafficking of women for sexual exploitation was established. It is chaired by Inmujeres and composed of representative of several ministries, judges, prosecutors and public defenders, civil society and international organizations. The work carried out by this mechanism receives the support of foreign donor agencies. Some of the incipient initiatives to provide assistance to victims of trafficking in Uruguay have been carried out by civil society organizations participating in this Roundtable with the assistance of the Ministry of Social Development.

33. Among the initial activities carried out by the Roundtable when it was first established was the organization of a one-day discussion aimed at designing a common intervention and a response strategy. The members of the Roundtable made an institutional mapping which identified successes and obstacles in addressing the issue of trafficking. Some of the main problems identified by the Roundtable included the lack of public policies to address the problem of trafficking for sexual exploitation, too few public officials with technical knowledge and awareness on this subject, the need to offer integrated assistance services for victims, lack of awareness and public debate on this issue

²⁰ Criteria to identify dangerous child labour established through INAU Resolution 1012/006.

²¹ Tuana and Benedet, op. cit., p. 45.

amongst the general population, the need for a national network that particularly involves localities in the border regions, the lack of experience in the application of laws that provide reparations for victims of trafficking.²²

34. Based on that diagnosis, the Roundtable has made recommendations which include (a) the development of training programs for public officials at all State levels; (b) the creation of specialized and centralized police units to investigate this crime; (c) focusing investigations on trafficking networks and not the individual victim/perpetrator; (d) strengthening control of entries and the exit of children in the borders; (e) developing inter-institutional protocols to address the issue of trafficking; (f) creating communication channels and focal points for the distribution of institutional information, and (g) establishing a telephone hotline to provide orientation and advice to victims.

35. In October 2004 the National Committee for the Eradication of Commercial and Non-Commercial Sexual Exploitation of Children and Adolescents, chaired by the INAU, was created with the objective of developing a national plan of action to prevent and eradicate sexual exploitation of children. The First National Plan covers the period 2007-2010, and puts forward specific institutional actions to eradicate commercial and non commercial sexual exploitation of children through prevention, protection, assistance and restitution programs. The Plan also provides for the implementation and monitoring of a number of activities aim:

- (a) To modify the social belief systems that sustain the sexual exploitation of children;
- (b) To raise awareness of the situation faced by children and adolescents in terms of sexual exploitation;
- (c) To generate sufficient human resources to attend to the problem;
- (d) To adjust the relevant legal framework to protect children against sexual exploitation;
- (e) To disseminate national and international legislation on the subject;
- (f) To prosecute the crime of sexual exploitation of children;
- (g) To better articulate the several institutional spaces linked to this issue;
- (h) To strengthen public and private systems that respond to situations of sexual exploitation of children.
- (i) To ensure the recovery of all children in situations of exploitation;
- (j) To develop strategies to deal with perpetrators;
- (k) To monitor the implementation of the Plan adjust it accordingly.

36. Furthermore, in 2006 the Ministry of the Interior established a Specialized Working Group on Commercial and Non-Commercial Sexual Exploitation of Children, the Worst Forms of Child Labour and Trafficking.²³ This group is coordinated by the National Direction of Social Prevention of Crime and includes police agencies such as INTERPOL Uruguay, the national immigration office and the police of Montevideo. This group aims at gathering and analysing information to produce a database of reports regarding sexual exploitation of children, child labour and human trafficking. It also seeks to systematize

²² Tuana and Benedet, op. cit., p. 48.

²³ Established through Resolution AS.10064/06.

good practices in regards to the investigation of these crimes, design a national response protocol, and propose relevant legislative amendments.

37. In spite of all these initiatives, the Special Rapporteur encountered a general lack of coordination and articulation among the different public institutions fighting against trafficking in persons as no common protocols or guidelines have been set up to jointly address the issue.

C. Identification of trafficked persons

38. Most of the cases of trafficking for sexual exploitation that have been investigated, whether the exploitation was carried out within Uruguay or abroad, have been addressed following a complaint placed directly by the victim or by a relative of the victim. Currently there are no specific procedures or guidelines for authorities to identify victims of trafficking and refer them to the appropriate services.

39. Sexual work, both in Montevideo and in the interior of the country, is sometimes carried out in establishments that are hidden, inaccessible and difficult to inspect, making them more likely to hide situations of vulnerability and exploitation that are not identified by the authorities unless a complaint is put forward. In terms of exploitation occurring abroad, Uruguayan consulates and diplomatic representations have not shown a proactive approach towards the problem and victims do not view them as places where they can resort for assistance.²⁴ The Special Rapporteur was informed that the Ministry of Foreign Affairs gives conferences and other training activities to Uruguayan diplomats before they are commissioned abroad, but the issue of trafficking has not been sufficiently addressed.

40. In terms of identifying trafficking for labour exploitation, inspection activities have reportedly been recently strengthened through the appointment of more and better qualified inspectors within the Ministry of Labour. These inspectors have broad investigative powers and there is a general culture of respect towards them. They have been provided with adequate equipment, vehicles, and tools to carry out their work.

41. The Ministry carries out inspections but also responds to specific complaints placed by workers, usually regarding free association, harassment at work and sexual harassment. There is a special office that receives all complaints, which can be filed anonymously through a free telephone line that is available throughout the country. There is an active presence of the work unions both during the inspections and in the response provided to specific complaints by workers.

42. Vessels at Uruguayan ports are inspected by both the labour inspectors and the Naval Prefecture before being authorized to set sail. Incoming vessels are also inspected by immigration officials that allow crew to disembark at the ports if they carry valid passports and working permits. Some of the labour inspectors have specific training to carry out the inspection of fishing vessels.

43. Inspections are also carried out in the interior of the country to monitor the agricultural sector, particularly forestry activities. Since the new law on domestic work was enacted in 2008, domestic work has become further formalized and may also be subject to labour inspections by the Ministry, although these can only be carried out following an official complaint and the issuing of a warrant.²⁵

²⁴ IOM, *op. cit.*, p. 295.

²⁵ Art. 13, Law 18.065 on Domestic Work.

44. Although inspectors have not received any training on trafficking in persons, they have all reportedly been trained on the worst forms of child labour. With regards to the port authorities, they have received general training on human rights but not on human trafficking.

D. Protection of trafficked persons

45. There are no public assistance services for victims of trafficking and most existing programmes target homeless children or victims of domestic abuse. Nevertheless, some pilot assistance initiatives have been carried out in Montevideo with the participation of both Government agencies and NGOs. Inmujeres has a specialized team of public servants who, since 2005, have received relevant training. It offers psychological and social assistance to victims of trafficking who have returned to the country with the assistance of IOM. Other assistance experiences have been carried out by NGOs offering psychological, social and legal assistance for women and children yet with very limited resources and difficulties in identifying trafficking cases.²⁶

46. One NGO reported assisting 12 victims of trafficking of persons since 2008, yet only one of the cases was prosecuted as such and most of them were investigated as cases of procuring, pimping or violence. All victims were channelled to the NGO through the Ministry of Foreign Affairs, the Ministry of the Interior or partner organizations. The cases involved mainly Uruguayan women who had suffered sexual exploitation in Argentina, Italy, Mexico and Spain by trafficking networks, and also cases of internal trafficking of adult sex workers.

47. With the support of partner institutions, mainly those participating in the Inter-institutional Roundtable, yet with very limited resources, this NGO provided support to the victims through services such as legal aid, risk assessments, psychological assessment, emotional support for the victim, family reinsertion, occupational training, health services, and general information and orientation. One specific shortcoming highlighted by the organization is the need to simplify and expedite the request mechanism for witness protection in order to adequately protect the physical integrity of the victims and their families. The lack of witness protection adds to the reluctance to report the crime of trafficking by victims and other whistle-blowers. Since witnesses are invariably required to secure convictions in trafficking cases and the victims are almost always the principal witnesses in such cases, the need to protect them in the prosecution of trafficking offences is imperative.

48. One important limitation faced by NGOs assisting victims of trafficking is the lack of shelters where victims may go through the recovery process. There are currently no specific shelters for victims of trafficking, but only a couple of public shelters for victims of domestic violence, one in the capital and one in the interior. In some cases, ad hoc spaces for victims have been set up within the existing shelters for vulnerable population. When children are involved they are sometimes received by the INAU and placed in their facilities.

E. Prosecution

49. The Special Rapporteur was informed of the following mechanisms to help address the issue of trafficking in persons from within the judicial system:

²⁶ Tuana and Benedet, *op. cit.*, p. 52.

(a) Two national courts specialize in organized crime. These are located in Montevideo but have national jurisdiction over certain crimes, including trafficking in persons and the sexual commercial exploitation of children. By having a national jurisdiction these tribunals may cover crimes that take place within different localities of the country. Law 18.494 gives these tribunals special prerogatives during the investigations which include:

- Provisional measures to guarantee the availability of resources that could be later seized from the criminals
- Electronic surveillance of the accused
- Reduction or exemption of penalties for collaborators who provide information
- Participation of undercover agents;

(b) Two specialized public defenders established by Law 18.362;

(c) Two specialized criminal prosecutors to address the issue of organized crime, including trafficking, established by Law 18.390. The first of these two prosecutors has attended 4 cases which were initiated in 2009 and 2010 and that refer to the crimes of (a) trafficking; (b) child exploitation; (c) prostitution, and (d) human smuggling. The second prosecutor has taken on cases relating to Law 17.815 on sexual violence against children and the disabled which have resulted in the conviction of two persons and a request to process two more.

50. In terms of the role of victims during prosecution, article 13 of Law 18.026 establishes that victims, their relatives or whoever is presenting a complaint on their behalf, have a right to participate and have access to the totality of the judicial proceedings; they may propose evidence and put forward evidence and proof they might have with them; they can participate in all the hearings, request the re-examination of the case and ask for updates on the status of the case. Special modalities are provided for cases where there was sexual or gender violence, such as the initial testimony of the victim not having to be corroborated later in court and the refusal of any evidence that makes reference to the victims or the witnesses sexual conduct. Although the issue of compensation and reparations for victims is contemplated by law, there does not appear to be any precedent of this kind of claim being made by victims.

51. In spite of the establishment of these mechanisms and laws, the number of prosecutions and convictions for the crime of human trafficking is still extremely low. There is reportedly insufficient resources, both material and human, to carry out more in depth police and judicial investigations of situations that could reveal cases of human trafficking.

52. The Special Rapporteur was made aware of the difficulties faced by judges to carry out more in-depth investigations. Although Uruguay has a mixed criminal system, it is more an investigative than an accusatory system. This means that judges, who usually manage very large numbers of cases at a time, have a larger responsibility in investigating crimes, while prosecutors accompany the process but do not lead the investigation.

53. According to information received, only one conviction has been handed down specifically for the crime of trafficking. This was a case involving Uruguayan women who were trafficked into Spain for the purposes of sexual exploitation, and who were also used to transport drugs. Nevertheless, this is a case that predates the establishment of the specialized mechanisms, and no convictions on trafficking have emanated from the specialized courts.

54. Other related cases addressed by local judicial systems from 2006-2010 include crimes such as (a) facilitation of the sexual exploitation of a minor; (b) facilitation of distribution of pornographic material; (c) pandering/pimping; (d) smuggling of a minor; (e) inducement to exercise prostitution, and (f) payment or promise of payment to a child for sexual services, to name a few. These cases were registered in the localities of Artigas, Cerro Largo, Ciudad de la Costa, Chuy, Flores, Maldonado, Montevideo, Pando, Paysandú, Río Branco, Rocha, San José, Tacuarembó and Young. In most of these cases, the accused were either acquitted or identified as pimps or recruiters.

55. Nevertheless, in these cases, no further investigation was carried out to identify a link with a larger criminal network or with a larger number of victims, apart from the specific person placing a complaint. NGOs have also reported other unresolved cases which involve disappeared women and adolescents that have never been investigated as possible trafficking cases.

56. The limitations faced by judges to address possible crimes of human trafficking are exacerbated by the lack of adequate investigation carried out by the police forces. There are currently no mechanisms or protocols to identify cases of trafficking nor a judicial police in charge of conducting relevant investigations. Currently, any alleged case of human trafficking needs to be managed through the local police forces, which have not received the specialized training required to address these crimes and which might also be in collusion with local pimps and brothel owners.

57. Several advocates highlighted the need to separate and centralize all investigations regarding trafficking and/or sexual exploitation given the difficulties of protecting information and witnesses in small locations, where everybody knows each other and keeping the confidentiality of cases is a challenge. The creation of a specialized task force within the police to specifically conduct human trafficking investigations was also highlighted by several stakeholders as an effective way to increase the number of prosecutions and convictions. This should be coupled with the allocation of adequate resources to train and equip the police.

F. Prevention

58. Uruguay is experiencing new forms of social and economic exclusion which have challenged the State's traditional approach to social welfare²⁷ and which especially affect children and adolescents, making them more vulnerable to exploitation.²⁸ Unless the State addresses these root causes of trafficking in persons, the impact of other prevention activities such as awareness-raising campaigns and training, will be extremely limited.

59. Together with an NGO, Inmujeres launched an awareness campaign against trafficking for sexual exploitation which included the distribution of a leaflet shaped as the Uruguayan passport in which some recommendation on safe travel are made and contact information for consulates in Italy and Spain are provided.²⁹

²⁷ Several stakeholders made reference to that State's "booth" system of providing social benefits which requires the population to approach the institutions and seek the support, fill out forms, meet the requirements, etc. This mechanism will not necessarily cover those most excluded who do not have the initiative or the means to access these "booths", highlighting a need for the State to proactively reach out to them.

²⁸ IOM, "Trata de personas: apuntes desde Uruguay sobre un desafío global", p.23. Available at: <http://www.oimuruguay.org/attachments/article/47/Trata%20Uruguay.pdf>.

²⁹ Tuana and Benedet, op. cit., p. 52.

60. NGOs working closely with sex workers also launched a prevention campaign in 2008 with funds provided by the Ministry of Social Development (MIDES) through Inmujeres. The campaign has since been running and leaflets have been distributed amongst sex workers and in neighborhoods where women and girls are usually recruited to engage in sex work. Another campaign on “safe migration” was launched in 2010 by NGOs in collaboration with the IOM. It involves the printing and distribution of posters to sensitize the general population on the issue.

61. The Ministry of Tourism has launched a campaign against the sexual exploitation of children and sex tourism in general which involves the signing of cooperation agreements with hotels, travel agencies and service providers that commit themselves to monitor and prohibit child prostitution within their establishments. Leaflets include the hotline to contact the INAU in case of need for assistance.

G. International, regional and bilateral cooperation

62. Uruguay participates in the Specialized Meeting on Women of MERCOSUR (REM, its acronym in Spanish),³⁰ which brings together the directors of the different women institutes and agencies of the participating countries. This mechanism has addressed the issue of trafficking for sexual exploitation, designing and approving specific anti-trafficking actions. It does so in coordination with other MERCOSUR bodies such as the Meeting of High Authorities on Human Rights and Foreign Ministries (RAADDHH, for its acronym in Spanish), the Meeting of Ministers of the Interior and the High Level Group for MERCOSUR Employment.³¹

63. In April 2009, with the support of the Spanish Agency for International Development Cooperation (AECID, its acronym in Spanish), the REM started implementing a project aimed at strengthening the gender perspective within MERCOSUR. One of the main components of this project involves the cooperation between the Spanish Government of Spain and the countries of origin of victims trafficked into Spain. The project aims to increase the debate on trafficking in the MERCOSUR region and to draft and adopt a regional protocol for the identification, intervention, rescue and reintegration of victims of trafficking for sexual exploitation. The project includes activities such as analysis of laws, mechanisms and organizations working on the issue in the different countries of the region, meetings of specialized MERCOSUR mechanisms, international seminars and exchange of experiences for public servants, and regional campaigns.³²

64. Another important initiative is the “Niñ@ Sur” initiative which was launched by the RAADDHH in 2006 and is now a permanent working group in which Uruguay participates through the INAU. The objective of “Niñ@ Sur” is to promote the coordination of national efforts to comply with the Convention on the Rights of the Child and the harmonization of national laws with relevant international instruments. In 2006, the fourth RAADDHH approved the “Recommendations on the rights of and assistance for children and young people who have been victims of trafficking or sexual exploitation”.

65. Another project within “Niñ@ Sur” is the “Twin Cities” initiative which is aimed at developing a regional strategy to fight against human trafficking and smuggling of children and adolescents in 15 border cities of the MERCOSUR. It includes activities of prevention

³⁰ La Reunión Especializada de la Mujer del MERCOSUR (REM) fue creada en el marco de la Reunión del Grupo del Mercado Común (GMC) realizada en Buenos Aires, el 22 de julio de 1998, por medio de la Resolución MERCOSUR/GMC/RES N° 20/98.

³¹ Tuana and Benedet, op. cit., p. 53.

³² Ibid., pp. 53-54.

and assistance that strive to improve the living conditions of children and adolescents to prevent them from becoming potential victims.

III. Conclusions and recommendations

A. Conclusions

66. There is a lack of statistical information to determine the prevalence rate, forms, trends and manifestation of human trafficking in Uruguay, particularly of trafficking for labour exploitation. This has caused the phenomenon to remain invisible and unacknowledged amongst the population and the authorities mandated to address it.

67. Although adequate legislation is in place, sexual exploitation of children, especially girls, is on the rise and certain social sectors seem to remain passive in the face of the phenomenon.

68. Human trafficking occurs in Uruguay yet the issue remains invisible to policy makers and the public. Very few cases have been recorded and filed through a judicial complaints mechanism. This is exacerbated by fear amongst some social actors and victims to come forward and file complaints regarding specific cases of trafficking.

69. Although special prosecutors have been appointed, there have been very few convictions related to trafficking in persons and, in most of these cases, initial prosecution was carried out to investigate other crimes such as drug trafficking or pimping.

70. There is little awareness, knowledge or skills amongst Government authorities in identifying cases of trafficking in persons, and this institutional weakness has helped conceal the problem. The work that is currently being carried out by public institutions is still at a low level.

71. Although Law 18.250 penalizes human trafficking, it does not provide for assistance and redress to victims. The lack of adequate services, such as shelter, health, psychological and legal services, and the lack of implementation of the right to an effective remedy places victims at an increased risk of being re-trafficked.

72. Trafficking for labour exploitation is an unrecognized phenomenon in the country. Reports of foreign workers in irregular situation on fishing vessels, citrus fields and in the wood industry suggest that stricter monitoring is needed in order to prevent trafficking cases.

B. Recommendations

73. The Government should carry out a national survey on human trafficking in order to obtain updated information on the prevalence rates of this human rights violation within the country.

74. Widespread campaigns should be launched to raise public awareness on this issue using media, information and communication technology (ICT) and other channels of communication in order to send a strong message against both human trafficking and the sexual exploitation of children.

75. A comprehensive, holistic and integrative national plan of action on combating trafficking in persons should be designed, which clearly sets out strategic objectives,

allows for cooperation among State authorities and between them and civil society organizations, and produces measurable indicators as well as monitoring and evaluation tools.

76. The Government should consider the establishment of a central agency to address human trafficking that will enhance coordination, not only among central authorities, but also between them and authorities at local levels.

77. Training and capacity-building should be continually provided to all State authorities in particular the police, judiciary, prosecutors, immigration and labour inspectors. Furthermore, specific trainings should be conducted for consular officials, especially in Italy and Spain, other main countries of destination of victims of trafficking, to enhance their capacity to detect, identify and provide assistance including making necessary referrals.

78. The judiciary should establish adequate mechanisms for witness protection and access to justice for victims, their families and civil society actors who might be assisting them.

79. The Government should strengthen its efforts to tackle the root causes that make potential victims more vulnerable to human trafficking such as social exclusion and discrimination against adolescents, high rates of school dropout amongst them and adolescents working in unregulated and exploitative conditions.

80. More stringent inspection of brothels and other businesses should be guaranteed to ensure that absolutely no person under the age of 18 or trafficked person is engaged in prostitution. A special police squad should be set up to investigate exclusively these situations.

81. The Ministry of Tourism and Sports should continue monitoring the compliance by hotels, agencies and other tourist operators with the agreements it has signed with them regarding the prohibition of child sex tourism.

82. Adequate resources should be allocated to enhance the effectiveness and sustainability of governmental anti-trafficking initiatives, including also financial support to civil society organizations that are currently addressing this issue with their own, very limited resources.

83. The Government should work in partnership with the United Nations agencies in Uruguay, who are best suited to provide necessary technical expertise to undertake these endeavours.
