

**FORCED LABOUR AND HUMAN TRAFFICKING**  
**The Global Challenge and the ILO Response**

*Presentation to Roundtable on “Human Trafficking with a Focus on Forced Labour”, Ministry of Foreign Affairs, Oslo, Norway, 4 September 2008*

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**Distinguished participants**

It is an honour to share some thoughts today on ways to deal with a disturbing global challenge, and also one of growing concern for governments, business and trade union actors in Europe.

Tomorrow, Oslo will be the scene of an important political event, as high level panellists discuss how the Decent Work agenda, as promoted by the ILO, can be a key to global justice and sustainable development. Today, to prepare the ground, we have to turn these concepts upside down. For what could be more antithetical to decent work and a fair globalization than the persistence, perhaps even growth, of forced labour on labour markets? Coming to grips with modern forced labour, a usually hidden and underground problem, poses a formidable challenge. But a deliberate focus on eradicating forced labour can also be a very practical and constructive way of addressing a decent work agenda, starting at the bottom or the first rung on the ladder towards the ultimate goal of productive labour markets working to the advantage of all, and free from any form of exploitation.

The focus on human trafficking has certainly grown in recent years, with Scandinavian countries taking an important lead. There are measures to prevent trafficking in poverty reduction programmes and strategies, and in programmes against child labour or gender discrimination. There has been a particular concern to stamp out the trafficking of women and young girls for sexual exploitation.

There is now a growing awareness of broader forms of forced labour exploitation, affecting men as well as women, first in certain sectors in European countries, and second in the factories of developing countries where European companies have outsourced their production. The latter concern has received particular attention of late. Most of you in the room today will be aware of the forced and child labour allegations faced by such Norwegian companies as Ericsson and Telenor earlier this year, in their outsourced Asian production.

In my comments today, I aim to do three things.

**First**, it is important to clarify what is meant by such terms as forced labour, trafficking for labour exploitation, slavery and slavery-like practices, all of which are getting increasing attention from the media. It is important to get this right, because

some are issues of criminal justice and law enforcement, which require a criminal justice response. Others can better be seen as a challenge of labour market governance, requiring closer cooperation between different government agencies, business and trade unions in order to prevent new patterns of exploitation, and to pave the way for a fairer globalization.

**Second**, I'd like to reflect on the relevance of these concerns for the Scandinavian region.

**Finally**, I'd like to share some elements of the ILO's approach to forced labour, in its research, policy guidance, cooperation with governments and other actors, and operational programmes. There is only time for a brief snapshot of these activities, but our material is available for those who want more detail. This includes our global report, *A Global Alliance against Forced Labour*, a DVD with the same title, guidance materials for legislators, law enforcement and business actors and a pamphlet on *ILO Action against Trafficking in Human Beings* which summarises our overall approach.

### ***Forced labour and labour exploitation: understanding the concepts***

A lead article in the *Economist* last month observed laconically that “Coercing hapless human beings into sex or servitude is obviously evil, but defining the problem (let alone solving it) is very hard”.

Why? Because coercion is becoming a very complex issue on global labour markets today, and often subtle means are used to deprive vulnerable workers of a fair or living wage. The ILO broadly defines a forced labour situation as one where people enter work or service against their freedom of choice, and cannot get out of it without punishment or the threat of punishment. But there are manifold ways in which freedom of choice can be negated. There is growing concern that unscrupulous recruitment practices – by small-scale labour brokers through to larger and registered agencies – are driving vulnerable migrants into situations of debt bondage and forced labour. The cocktail is a mix of excessive charges and transaction costs for visas, travel and placement expenses in the country of origin; and confiscation of papers, threats of denunciation and sometimes physical coercion in the country of destination.

Moreover, the recent entry into force of a 2000 United Nations instrument on human trafficking is calling attention to the linkages between *coercion* and *exploitation*. Forced labour like slavery is a serious criminal offence. As the ILO has indicated, the concept cannot be equated with poor working conditions. But state parties to the Palermo Trafficking Protocol are required to criminalise the offence of trafficking for “exploitation” which, while broken down into the categories of sexual and labour exploitation, is based only in part on the concept of forced labour. At the national level, some countries have actually based the concept of exploitation as much on the notion of “degrading” working conditions, or on conditions considered “incompatible with human dignity” as on coercion itself.

### ***The Issues in Scandinavia***

How real is the risk of forced labour in the Scandinavian countries? In May last year the ILO helped organize a Nordic Expert Seminar on Trafficking for Forced Labour, on the initiative of the Swedish Ministers of Justice and Labour. Its goal was to bring together experts from these ministries, law enforcement, labour and migration from Denmark, Finland, Norway and Sweden. It seemed in advance that Scandinavia, with its well entrenched systems of social protection, was the *very last place* in Europe where problems were likely to be detected. But an intense discussion, focusing on demand reduction in trafficking for labour exploitation in the Nordic countries, unearthed a range of concerns that now warrant some attention.

On the one hand, the consensus was that labour trafficking was a relatively small problem in the Nordic countries, compared with other regions of Europe and elsewhere that appear to be at higher risk. On the other hand, participants identified sectors and industries – construction, restaurants, domestic work, berry-picking in northern Finland and Sweden – where Nordic workers just won't do the jobs on offer, where profit margins are tight, and where the incentives to hire irregular foreign workers can create a breeding ground for forced labour and trafficking. Speakers consistently emphasised the need for refined labour regulations, especially with regard to sub-contracting, and to open up the well regulated Nordic labour markets to the new and non-national workers.

Four further points were also addressed at this meeting. **First**, it is essential to address the current lack of knowledge on forced labour and trafficking, and to increase awareness among those working with potential victims. **Second**, there is a need for better indicators to identify forced labour. **Third**, in strengthening cooperation among different actors, it is essential to increase resources allocated to labour inspectors, linking their work with criminal law enforcement and others responsible for combating the problems. **Finally**, Governments should bear the main responsibility for work on forced labour and trafficking.

### ***ILO responses***

The ILO has a particular mandate on forced labour, as on the other core labour standards covered by its international labour Conventions. We consider all exploitative outcomes of human trafficking – whether forced commercial sexual exploitation, or other forms of economic exploitation – as forced labour. But the ILO has a particular strength, compared with other international organizations, in addressing the broader issues than sexual exploitation. We can also harness the efforts of labour institutions and our social partners, including labour inspectors and labour prosecutors, employment agencies and employers' and workers' organizations, to support action against all forms of trafficking.

In presenting action against trafficking, it is commonplace to distinguish between the “three P's” of prosecution, prevention and protection. I prefer to present things differently, because in practice all three of these approaches overlap. For us, what really matters is when to go down the route of criminal law enforcement; when to go down the route of labour justice, with its combined functions of prosecution, prevention and the protection of victims; how best to combine the efforts of criminal justice practitioners on the one hand, and labour authorities on the other; and how to

work with those at risk of forced labour and trafficking, both to prevent the abuses happening and to assist the reintegration of victims after their release.

The ILO's Special Action Programme to Combat Forced Labour was created in late 2001, shortly after the adoption of the "Palermo Trafficking Protocol" to the UN Convention against Trans national Organized Crime. Not surprisingly, member States have been looking to us for guidance, as to how to develop indicators for their police, prosecutors and others on ways to identify forced labour situations in practice. It is fairly uncharted territory, given the relative absence of jurisprudence (though there has been a growth of forced labour prosecutions in the United States this year, and the first Norwegian verdict on forced labour was passed just two months ago). As ILO, we have set about the task in different ways.

Both thematic and country-specific research have been essential. The 2005 report, *A Global Alliance against Forced Labour*, provides the overall picture, by forms of forced labour, age and gender, and region. It gives the disturbing figure, of 12.3 million persons in forced labour today including a minimum of 360,000 victims in the industrialised countries. Other in-depth country reports (covering France, Germany, Portugal and Russia, among others) have examined causes and manifestations of modern forced labour in Europe, particularly affecting irregular migrants. These studies have provided the essential background information, on the basis of which the above mentioned guidance materials have been prepared.

A next step has been to assist governments prepare national estimates of forced labour. Here we are only at the foothills, having begun some pilot and experimental work in Central European, African and Latin American countries, including forced labour questions in survey instruments like labour force surveys, population census and surveys of returned migrants. The key issue is asking the right questions, in such a way that the elements of coercion can be identified in the responses.

A prosecutor will have little problem when a Chinese or other migrant is locked in a sweatshop, working endless hours and weeks without pay. But it is common wisdom that forced labour is a continuum, from the more flagrant abuses towards the more subtle forms of coercion that may not actually be prohibited by law, or may be widespread in practice even if in technical violation of criminal, labour or other civil laws. In these cases, to agree on the appropriate response, it is essential to reach national consensus as to degrees of gravity and means of dealing with them. To this effect, together with the European Union, our programme has embarked on a Europe-wide expert consultation regarding harmonised indicators of unfree recruitment, forced labour and exploitation. It covers the various aspects of deception, coercion, withholding of money or identity documents, isolation, violence and threats of denunciation to the authorities. It should help build a European consensus, as to what acts and practices need to be punished with the full force of criminal law, and what might best be tackled through awareness-raising and other means.

Throughout the world, a challenge has been to get the labour and public security or police authorities to coordinate their efforts on forced labour and trafficking. In Ukraine, with ILO support, the Ministry of Labour and the Public Employment Service are actively involved in the awareness raising and prevention

aspects of the National Action Plan against Trafficking. A video film, “Don’t look at work abroad through rose-tinted glasses”, has been broadcast regularly on national and regional television channels, and also on the metro. In Jordan, where there have been widespread allegations of forced labour in factories producing garments for export, an ILO project has been able to bring interior, labour and justice officials together in combined action.

In Latin America Brazil with ILO support, has established a special mobile squad through cooperation between the Labour Ministry, labour prosecutors and the police, to release persons in “slave labour” conditions in remote parts of the Amazon. In 2007 the Ministry announced a new record of over 6,000 people released by the unit in this one year alone, though there is less evidence of prosecutions. The project has also helped promote a national pact of employers, to avert forced labour in their supply chains. Norway has supported our Brazil project through a bridging grant for the current year while we are seeking additional donor support. In other Latin American countries, through a Swedish-funded project, we have worked with labour ministries to create inter-Ministerial commissions against forced labour with the involvement of employers’ and workers’ organizations, and to strengthen labour inspection in remote areas. In Asian countries, our interventions have had a mix of approaches, some at the policy level, others working directly with community groups.

Prevention can be approached in many different ways. There can be community level awareness raising, national publicity campaigns, and a focus on the demand aspects. A key question is whether to seek to stop people moving into risky situations, or whether instead to place the emphasis on empowerment of vulnerable groups to negotiate better conditions. With Norwegian support, an ILO project on combating forced labour and trafficking of Indonesian migrant workers places much emphasis on the latter. It realistically accepts that Indonesian job seeking in the Gulf states and elsewhere will be a fact of life for the foreseeable future. So it combines the elements of policy work and legislative protection with awareness raising and advocacy, outreach and protection, and a focus on the way in which abusive recruitment systems can be conducive to abuse in the destination countries.

Government policies have to be based on a sound assessment of the demand for labour, including foreign workers, in different industries. In Europe for example there is a growing commitment to crack down on “illegal” forms of employment, usually with sanctions against the offending employer. But such policies won’t get very far if European nationals are unwilling to do the work on offer, and foreign workers cannot enter through legal channels. This is precisely what creates the preconditions for labour trafficking, if criminal elements see the chance to make sizeable profits by meeting this demand.

Business actors have different needs and responsibilities. They need to keep forced labour out of their own supply chains, both at home and overseas. They need to know when to keep engaging with a supplier in a developing country, to achieve gradual improvement of conditions, and when they must disengage immediately in order to avoid complicity in forced labour. But business leaders must also be part of wider policy debates, on recruitment fees, on subcontracting, and means to regulate or self-regulate certain practices. Our programme against forced labour has been actively promoting a business alliance on the subject, in cooperation with the International

Organisation of Employers . This has involved capacity building for national employers in different sectors – Jordanian textiles, Russian construction, Brazil and China more generally – as well as the preparation of different guidance documents. Meetings with some high level business leaders in Atlanta, London and elsewhere have pointed to the kind of guidance materials that is now most urgently needed. A handbook on forced labour for employers and business is now being completed, with inputs from employers and companies around the world. It includes guiding principles, a compliance checklist and guidance for auditors, advice on remedial action, good practice guides and case studies, and material addressed at particular at-risk sectors including construction, transport, garments and textiles, global food retail, and hospitality.

We are simultaneously cooperating with trade unions, particularly through the International Trade Union Confederation in Brussels to promote a workers' alliance against forced labour. Steady progress is being made, for example through an African consultation in Kenya two months ago, to see how trade unions can intensify their action on behalf of vulnerable workers who are not part of their normal constituents. In Athens this November the Greek General Confederation of Labour, together with the ITUC and European Trade Union Confederation will be hosting a high level conference to determine priorities for a European Plan of Action on Forced Labour and Trafficking over the coming two years. I very much hope that the Scandinavian unions will be there in force.

### ***The challenges ahead***

Three years ago Director General, Juan Somavia, committed the ILO to leading a global campaign against forced labour, seeking to eradicate it by 2015 as one vital contribution to the Millenium Development Goals.

Are there signs of progress?

Certainly there is more attention to the problems, more visibility, more laws and policies, and in some countries an implementation mechanism to ensure follow-up. The initiatives by business and workers' organizations are to be greatly welcomed.

There has been some growth in law enforcement, on a subject which was simply hidden and underground a few years ago, and which escaped the attention of labour inspectors and criminal justice alike. The building blocks are therefore in place for an intensified global campaign against forced labour and labour trafficking, in which the European and Scandinavian countries are well positioned to play a prominent role.

Yet I would argue that the systemic concerns of labour market governance, the grey areas between the criminal act of forced labour and other morally unacceptable forms of labour exploitation, now merit more urgent attention. Globalization, and the growing movement of workers across frontiers, have sprouted a wide range of recruitment and contracting agencies that are making large profits from some of the poorest and most vulnerable workers on the planet, including migrant women. Tightening the regulations over these often abusive practices, and making sure that migration works to the benefit of all, is an essential ingredient of a fair globalization.