

FIGHTING HUMAN TRAFFICKING: THE FORCED LABOUR DIMENSIONS

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Introduction

Human trafficking is in large part about the exploitation of vulnerable workers, women, children and also men. It is an issue of labour rights and labour protection, as well as of human rights and criminal justice. And whether the trafficking is for sexual exploitation or for other forms of economic exploitation, labour actors must be harnessed to global efforts to prevent and combat it. Ministries of labour together with labour inspectorates, employers, recruitment agencies and trade unions must all be an integral part of global efforts to eradicate human trafficking.

Of the United Nations and other international organizations that have jointly prepared this Vienna Forum, the International Labour Organization is somewhat unique. While an Inter-Governmental Organisation, it is also a tripartite body in which employers' and workers' organizations make up its governance structure together with governments.

This is why, in taking responsibility for three working sessions at this Forum – on supply chain management, on demand, and on the role of employers' organizations against trafficking, respectively – we have made a deliberate effort to involve the ILO's social partners throughout.

This background paper provides background information on the issues of the ILO's primary concern, with a particular focus on trafficking for forced labour exploitation, and raises questions for further discussion. It begins by discussing the concept of forced labour and assessing the current state of knowledge. This is followed by a discussion of demand factors, supply chain management issues and recruitment systems. A final section discusses concrete measures that can now be taken to prevent and identify forced labour, particularly by employers and workers in cooperation with other national and international partners.

What is forced labour?

Trafficking is a process that very often ends in forced labour – be it forced commercial sexual exploitation or different forms of economic exploitation. *Forced labour* is defined in the ILO Forced Labour Convention (No. 29) that dates back to 1930. The term covers all work or service that any woman, man or child is coerced to do under the threat of a penalty, and for which they have not offered themselves

¹ This background paper covers all three working sessions for which the ILO is responsible.

voluntarily. In common usage today, the term *slavery* is often used to connote forced labour or “slavery-like” conditions. *Slavery* was first defined by the League of Nations in 1926 as a situation where rights of ownership are exercised by one person over another; and subsequently, in 1956, a UN instrument addressed slavery-like practices, including debt bondage, serfdom and related practices.

There are many ways in which a person can be coerced into undertaking work against their free will. Those most commonly associated with the forced labour resulting from human trafficking include the confiscation of personal identity documents, the threat of denunciation of irregular migrants to the authorities in the host country, deception of a trafficked person about the type of work he or she will eventually undertake, and withholding of wages over prolonged periods. Threats of – or actual – physical or sexual violence against the victim, or his or her family members, are also used to keep victims in work against their will. Debt bondage, often associated with more “traditional” forms of forced labour, is among the most prevalent means now used to keep trafficked victims in situations of forced labour. Debts incurred by the victim during the trafficking process -- for transportation, forged documents, smuggling through borders and so on -- as well as at the destination (for food, lodging, securing a “job”) accumulate to such a proportion that the victim will never be able to pay them off through the meagre income earned, effectively bonding them to work for the trafficker or employer for an indeterminate period of time.

Forced labour is closely linked to human *trafficking*, but is not identical to it. While most victims of trafficking end up in forced labour, not all victims of forced labour are in this situation as a result of trafficking. For example, people who are coerced to work in their place of origin have not been considered in the ILO’s own estimates of forced labour as trafficking victims. A distinction must also be drawn between those people who are under some form of economic compulsion to accept sub-standard working conditions because they simply have no alternative (exploitation or abuse of vulnerability, but not necessarily forced labour) and those against whom actual coercion is exercised by a third party to force them to undertake a job against their will (forced labour).

The state of our knowledge

The ILO estimates that at least 12.3 million people are victims of forced labour worldwide. 9.8 million are exploited by private agents, including more than 2.4 million as a result of human trafficking. In industrialised countries, transition countries, the Middle East and the North Africa region, trafficking accounts for more than 75 percent of all forced labour cases – it is the fastest growing form of forced labour. Around 43 percent of the total number of trafficked victims are trapped in commercial sexual exploitation, while around one third are exploited in agriculture, private households and sweatshops. Moreover, four out of every five cases of all forced labour involve exploitation by private agents.

Forced labour and trafficking are global problems that affect all countries and economies. Some industries may be at greater risk than others, for example those that rely on cheap or seasonal labour, or involve difficult and dangerous jobs. Problems

can arise over deficient systems of labour recruitment, particularly in industries with complex chains of subcontracting. The risk of forced labour and trafficking doubles when companies have lengthy supply chains, which may involve recruitment agents whose activities may be poorly monitored.

Agriculture, food processing, construction, textile and garment enterprises, retail, manufacturing, logging, mining and restaurants are particularly susceptible, apart from the “invisible” sectors such as domestic work and entertainment. Current research is showing a greater range of industrial occupations where evidence of forced labour and trafficking for labour exploitation is detected. Moreover, there are sectors which may not directly impose forced labour and trafficking, but can still be tainted by it unless adequate safeguards are adopted. Hotels and entertainment places, airlines and other transport companies, visa and travel agencies, or internet operators: these all have to be on permanent guard against trafficking.

Research on the correlation between the demand for cheap labour and trafficking as well as trafficking related to global supply chains is still in its infancy. The ILO has pioneered largely qualitative research on trafficking in key destination countries that has raised several issues for further debate. How for example do labour regulations and enforcement systems (such as the number of labour inspectors, the functioning of employment tribunals or the presence of trade unions) influence trafficking? What are the incentives of employers to comply or not to comply with fundamental labour standards? How does consumer behaviour influence human trafficking, and how is consumer behaviour stimulated by those offering cheap goods or services, or goods and services that are illegal? How do ever more complex supply chains or labour contracting systems influence compliance and eventually the incidence of trafficking?

Demand for forced labour and trafficking

When discussing demand factors, two important distinctions have to be made. First, are we referring to the demand for cheap and flexible labour that is driven by employers? Or rather to the demand for cheap or even illicit goods and services that is driven by consumers? Second, apart from the principal actors that are driving demand, what are the key structural factors behind this demand, such as the regulation of labour markets (formal and informal), global competition or cultural and social patterns of behaviour?

Demand for cheap products or services that are always and quickly available have led to adjustments in some of the industries where trafficked persons tend to work. Increased global competition has contributed to a shift of production over recent decades. For example, a major part of textile and garment production has either been re-located to lower income countries or sub-contracted to small and flexible suppliers. The relocation of industries and outsourcing practices were accompanied by important legal changes. For example, most governments around the globe have abolished the state monopoly on recruitment during the 1990s and now allow private agencies to act as recruiters as well as labour contractors (or labour leasing agencies). While this has contributed to greater efficiency in job placement and more flexibility in the labour market, it has also made it more difficult to regulate and monitor

employment relationships under labour law.

In addition, governments are under increasing pressure to cut taxes and to reduce public spending. Labour inspection systems, for example, have been reduced in many countries or abolished entirely. A recent ILO study reveals that there is an estimated global shortfall of around 40,000 labour inspectors worldwide. About half of this global shortfall exists in industrialised economies – which is precisely the place where many trafficking victims end up. Weak enforcement is also related to insufficient legal frameworks. While many countries have now adopted anti-trafficking laws, they are often limited to trafficking for the purpose of sexual exploitation and criminal law enforcement. In addition, coherence between labour and migration law is often lacking.

Employers who operate on the basis of very low margins of profit and under fierce global competition have little incentive to improve labour standards. On the contrary, they will squeeze labour costs, in particular in labour intensive and low-skilled economic sectors in which workers can be quickly replaced. If this is accompanied by a general climate of impunity due to the absence of laws and strong labour law enforcement, the risks are high that sub-standard working conditions degenerate into forced labour.

Where employers have no incentives to change, can consumers make a difference? The enforcement of fair labour standards for all workers, particularly those workers most vulnerable to forced labour and trafficking at the bottom end of the labour market, rests ultimately on the willingness of consumers to pay a higher price for products, to accept fluctuations in the offer of goods, or not to demand certain (e.g. illicit) goods and services at all. In recent years, consumer based initiatives have mushroomed across the world and particularly in industrialised countries. These include product labelling and fair trade initiatives, advocacy campaigns and corporate codes of conducts as well as multi-stakeholder initiatives.

Consumer-based initiatives, however, have to struggle with monitoring problems and lack information. While many consumers would be willing to make responsible choices and pay a higher price, they often do not know how to make the right choices. They lack reliable information about the products they desire. Labelling, codes of conduct and similar initiatives have tried to address this dilemma; yet they are often faced with a problem of monitoring. Private auditing is often insufficient and sometimes insufficiently impartial to satisfy consumer demands for trustworthy information.

The issue becomes more complex when we talk about goods or services that are not regulated or only partially regulated under labour law because they are not considered as productive work. Domestic work and sex services are two such examples. While these economic activities remain outside the legal framework or have been criminalized entirely (e.g. prostitution), there may still be a market for such goods or services. Some pioneering research has recently been carried out on the demand for certain types of sexual services. For example, a multi-country IOM study on demand and supply factors of the sex industry in several European countries revealed that the behaviour of clients is deeply rooted in social and cultural patterns (e.g. the discrimination of women in society), and a consumerist attitude based on the

belief that “everything” can be bought.

Likewise, domestic workers are marginalized in many countries and often not protected under labour law despite the growing demand for domestic services. In domestic work, the ultimate consumers are also the employers. It is thus more directly in their power to influence labour conditions. Like all other work, the demand for paid household and care workers is stimulated by structural factors, such as the growing insertion of women into the labour market, as well as cultural factors. IOM-led research on the demand for domestic services showed how employers treat domestic workers differently across cultural settings. What employers may not do to their domestic worker in one country because of a general understanding that domestic workers should be treated fairly, may be quite permissible in another.

Key questions:

- How can sector-specific responses against forced labour and trafficking most effectively take consumer behaviour into account?
- What more incentives might be given to employers, encouraging them to take steps to prevent trafficking?
- What more can be done to improve conditions and safeguards in those sectors of the informal economy where there is a high risk of forced labour and trafficking?

Preventing forced labour in global supply chains and recruitment systems

Globalisation has been characterised by an increase in global economic integration and growing links across countries and firms through international trade. Falling barriers to trade and investment, cheaper transport and changes in technology have made it possible to break down the production process into distinct stages and locate it in different countries. Economic activity is now not only global in scope, but global in organisation, with the production of many goods and services integrated into global production systems for supply to global markets.

The rise of global production systems has had social consequences that are both positive and negative. These systems have created jobs and had a positive effect on wages in some countries, while providing opportunities for local firms to absorb new technologies and skills. However, the emergence of these systems has also placed downward pressure on working conditions and wages in other countries and a number of industries. ILO studies on different economic sectors (e.g. food processing, apparel manufacturing and textiles) have shown that workers sometimes end up in more precarious circumstances and, thus, face even greater risks of trafficking for labour exploitation.

The trend towards integrated global supply chains goes hand in hand with ever more complex labour recruitment systems that often make it difficult to identify the actual employer. Most labour providers still focus on domestic markets, however, the share of cross border labour exchanges is growing and so is the business for private

recruitment agencies. Wherever people move, private intermediaries take a cut: as sponsors, recruitment agents and sub-agents, travel agencies, labour leasing firms etc. While recruitment for employment abroad is a legitimate and much-needed business, in the worst cases it can provide a cover for trafficking activities. When monitoring is weak and business standards are lacking, unscrupulous recruitment agencies can make high profits by charging migrant workers excessive fees, deceiving them about the nature of their work and paying wages far less than those promised at the time of recruitment.

This presents a tremendous risk to global business and no company can afford the negative implication of being associated with such practices either in its own business operations or across its supply chain. A company facing sound allegations that it is profiting from forced labour exploitation will not only find its reputation severely tainted: it might in rare but often highly public circumstances also face expensive lawsuits and criminal prosecution.

In this context, there is an increasing tendency for global companies to look beyond traditional methods of supply chain management and auditing. Corporate social responsibility (CSR) programmes – including codes of conduct and related implementation systems such as social auditing – have developed to address the immense risk posed to brand image by poor and abusive working conditions in supply chains. This is particularly true when an industry is reliant on consumer products and where stakeholders perceive that a company has considerable influence over its trading relationships. If a serious violation of labour rights is found in the extraction or production of a commodity (for example, cotton, sugar, cocoa or palm oil), it is the entire sector that suffers perceptual damage. As a result, many global companies have sought to address these risks by becoming involved in multi-stakeholder initiatives that seek to prevent forced labour, trafficking and other abusive labour practices in specific industries and sectors. These initiatives (e.g. the International Cocoa Initiative or Better Cotton Initiative) involve competitors as well as suppliers, local communities, government authorities, labour recruitment agencies and other stakeholders.

Key questions:

- How can labour recruitment systems be regulated in a way as not to hamper labour market efficiency while at the same time guaranteeing labour rights to migrant and contract workers?
- What are the challenges of implementing laws against forced labour and trafficking in global supply chains and labour contract systems?
- What guidance tools are needed to help companies prevent forced labour at different levels of their supply chains?
- To save their reputation, buyer companies may be tempted to disengage from any supplier believed to have used abusive practices. Is this always the right strategy?

- Under what conditions should buyer companies continue to engage with suppliers to achieve progressive improvement and the eradication of forced labour?
- Do existing company codes on labour rights give enough attention to forced labour and trafficking? How might they be improved? How can supply chains better monitored?
- How far down the supply chain can codes of conduct reach?

The role of business, employers' and workers' organisations

The role played by employers' and workers' organisations and business in combating forced labour and trafficking globally is now growing steadily. On the workers' side, an important step was the adoption by the International Trade Union Congress (ITUC), at its General Council held in Washington in December 2007, of a plan of action to guide future trade union activities in the areas of forced labour and trafficking. This was seen by the Council as an essential step in the establishment of a Global Trade Union Alliance against Forced Labour and Trafficking. All ITUC trade union affiliates are now urged to integrate into the work programmes, as appropriate to national circumstances, action points including:

- promoting the ratification and effective implementation of ILO Conventions on forced labour and other relevant Conventions
- addressing forced labour and trafficking issues in bipartite and tripartite negotiations and agreements
- promoting political and material support within trade union organisations for the development of policies against forced labour
- monitoring of employment agencies as well as companies, including their supply chains, to detect and combat forced labour and trafficking practices
- bilateral, sectoral or regional trade union cooperation agreements, and appropriate alliances or coalitions with civil society organisations having recognised expertise and experience in relevant areas
- cooperation with labour inspection services, law enforcement and other relevant national, regional or international authorities or inter-agency working groups
- outreach and direct support to informal, unprotected and migrant workers at risk, to address their specific situation and needs, including through their integration in trade union ranks.

On the employers' side, important steps have also been taken in a number of countries. Many companies have taken steps to prevent and eradicate forced labour through CSR programmes, as members of the UN Global Compact and as participants in multi-stakeholder initiatives across different economic sectors. These activities have borne fruit in raising awareness about forced labour, putting it firmly on the agenda of global business.

The ILO (through its programmes on forced and child labour, and more general initiatives on better work) has been working with employers' organizations, listening to their concerns, and preparing guidance materials accordingly. In China for example, a training manual is being prepared with a particular focus on employers engaged in subcontracting, recruiting agencies, small and medium enterprises in export processing zones, and suppliers to multinationals. In Russia, together with the European Bank for Reconstruction and Development (EBRD), the Special Action Programme to Combat Forced Labour has been working with construction employers to raise awareness of the risk of migrant workers' exploitation and to improve recruitment practices. In Jordan it has held training sessions with garment exporters, particularly those whose factories in the export sector have been criticised for alleged forced labour practices. And in Brazil, ILO guidance has helped employers to audit the performance of charcoal producers. As part of UN.GIFT, the ILO programme has recently embarked on a new initiative with employers on supply chain management. This covers the four sectors of construction, garments and textiles, food chains and retail, and transport. Through detailed consultations with business actors in these four sectors, it aims to develop targeted training and guidance materials by the end of 2008.

What more can employers' and business leaders do? In today's complex business environment, it can be very hard to monitor all aspects of production throughout the supply chain. Senior management and other company officials simply may not know what the recruitment practices are of sub-contractors and suppliers. Yet action can be taken on a variety of fronts: some, to safeguard a company's own reputation and promote an ethical business environment; others, to provide business leadership in broader action and public-private partnerships against forced labour and trafficking. The ILO's Special Action Programme to Combat Forced Labour has proposed a set of 10 principles to guide business action.

Key questions:

- How can employers and workers be more involved in strategic action against trafficking at the country level, for example in the drafting and implementation of national action plans?
- How can employers' and workers' organizations become more closely involved with the initiatives of other civil society organizations for the prevention of trafficking and support to victims?
- What more can be done to improve awareness among these organizations and encourage them to include action against forced labour and trafficking among their organizational priorities?

Where do we go from here?

In 2005, the ILO Director General called for a global alliance against forced labour which is now taking shape. This paper has already demonstrated that, together with governments, trade unions and employers are taking concrete steps to tackle forced labour at the shop floor and down the supply chain. But there is more the ILO

can do and indeed does together with other stakeholders. Private sector action needs to be backed by strong legislation and effective law enforcement. The ILO provides guidance to legislators on the implementation of its forced labour conventions into national law and practices. A growing number of countries have revised their legislation in order to criminalize forced labour offences.

More practical guidance for law enforcement authorities is needed to close the gap between policies against forced labour and the actual identification of victims. The ILO has therefore initiated training programmes for labour inspectors and other law enforcement agencies on the identification and prevention of forced labour. Training activities of government officials and social partners on the regulation and monitoring of private recruitment agencies are also expanding, indicating a clear need for ILO tools and guidance in this field.

In its many technical cooperation programmes across the world, the ILO works with governments, workers' and employers' organisations, NGOs, research institutions, community groups and other activists involved in the fight against trafficking. It tackles trafficking as a problem of forced labour, child labour or migration management. These projects on the ground provide financial resources and useful entry points to strengthen supply chain monitoring and to reduce demand. In a recently published document, titled *ILO Action against Trafficking in Human Beings*, the office has provided more background information on its different areas of work against trafficking. It discusses research and statistics, prevention through employment creation and training, working with social partners, legislation and law enforcement, gender issues and migration management.

The ILO invites participants of the Vienna Forum to join the global alliance against forced labour to make a dent in the real world: at the shop floor, in the mines and fields, in private homes, and in the informal and underground economy. The debates at this Forum will hopefully provide further vision for the way ahead. It will help trade unions to find better ways to give potential trafficking victims a voice, to assist them where necessary and to lobby on their behalf. It will show ways to business how to develop effective monitoring and implementation systems for their codes of conduct, and how to coordinate their action at the global level in order to prevent a race to the bottom. It will engage governments in a dialogue in order to develop effective policies and to provide help to victims no matter where they come from and who they are.

For further information, please contact:

Special Action Programme to Combat Forced Labour (SAP-FL)
Email: forcedlabour@ilo.org
www.ilo.org/forcedlabour

International Programme for the Elimination of Child Labour (IPEC)
Email: ipec@ilo.org
www.ilo.org/ipec

See also:

ILO (2008): *ILO Action against Trafficking in Human Beings*, Geneva. Download at www.ilo.org/forcedlabour