

OSCE Conference

Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude

Vienna, 17-18 June 2010

Ladies and Gentlemen, distinguished participants,

1. Allow me to first of all, on behalf of the International Trade Union Confederation, its 312 national trade union centres and 176 million members, congratulate Ms Maria Grazia Giammarinaro for her appointment as the new OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings and thank her sincerely for the invitation to address this conference. She is an asset to any organisation she works for, and we are confident that she will contribute greatly to the work of the OSCE in Combating Trafficking.

2. As a first showing of her expertise in the area of anti-trafficking, we also congratulate her and the OSCE on the choice of the specific theme for this conference: “Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude.” A profound discussion on this subject is timely. Not only is the issue of domestic work now being addressed in the International Labour Organisation, but the lamentable situation of many of these vulnerable workers is also a sad illustration of some of the limitations and shortcomings of policies and strategies to combat trafficking to this date.

3. I have been asked to talk about the ITUC approach and experience, as a trade union organisation, to combating trafficking, and to make some recommendations for the future.

4. To frame the issue under discussion properly before starting, I should say that to the ITUC, domestic servitude is a specific form of forced labour exacted from a domestic worker. As a reference, we use the ILO definition of forced labour of Convention 29 and use Convention 182 as a legal reference for forced child labour. Domestic work is tentatively defined in a proposed text for a future ILO Convention as “work performed in or for a household or households”. It is clear that not all domestic work is exploitative or something which could be referred to as “servitude”.

5. Trade unions have over the past five to ten years intensified their demands for an international convention to provide decent work for domestic workers, and we are very happy that at this year’s International Labour Conference, tripartite discussions were held to this end. On the basis of these

texts, a Convention supplemented by a Recommendation will be proposed for adoption at next year's Conference. From a workers' perspective, the Convention should recognise that domestic workers are workers like any others, with labour rights. Today many domestic workers are excluded either *de jure* or *de facto* from effective protection of national labour law and social security. This needs to be redressed, and extending labour regulation to cover domestic workers is an urgent need. We would like to reiterate our thanks to the governments that have supported the proposals of the workers' group in the ILO and hope we can count on their support for their adoption next year. We also extend our thanks to domestic workers' organisations for their input and support during these discussions.

6. Since 2007, the ITUC, in close cooperation and with appreciated financial assistance from the ILO, has been building what is called the "global trade union alliance to combat forced labour and trafficking". This alliance aims to increase the capacity of our member unions to better reach out to, assist and defend the rights of the most vulnerable workers or those subjected to forced labour practices, including as an end result of a trafficking process. The alliance connects different people, organisations and institutions to jointly combat more effectively the modern-day scourges of forced labour and human trafficking. Also, in this context we very much welcome the invitation coming from the OSCE, in essence an intergovernmental organisation.

7. Domestic workers have always been at the heart of the activities and programmes of our alliance, as it is a group of workers particularly vulnerable to extreme forms of exploitation and abuse. Domestic workers, mostly women and migrants, are an essential but invisible part of the economy. Their work is undervalued, underpaid, and their rights unprotected. Working individually in isolated and private workplaces, often undeclared and unregistered, leaves them vulnerable to all kinds of abuse ranging from poverty wages, excessive hours and workloads, insufficient holidays to confiscation of identity papers, unilateral changes to the employment contract (if any) on reaching the destination country and also to extremes such as bonded labour, confinement, abandonment, violence, including sexual abuse, with sometimes even death as a consequence. Demographic trends, such as ageing populations, working women, diminishing family support structures, an increase in single-parent families and privatisation of public services, all fuel demand for domestic service. It is likely that in the future, even more workers will be working in private households.

8. The most sustainable way for domestic workers or for all other workers, for that matter, to protect themselves against exploitation and abuse is to organise themselves into trade unions and to

bargain collectively. Therefore, domestic workers need to be taken out of the shadow and fully enjoy the right to join and form a trade union and to bargain in a collective manner. Women working in informal domestic work are very dispersed, have almost no free time and work each for a separate individual employer, rarely organised in an employers' organisation. Therefore, trade unions need to intensify their work to reach out to these workers in creative ways. Increasing good practices and good results are being achieved by trade unions around the world in that matter. For example, in Hong Kong, Malaysia, Mexico, the US, Indonesia, Kenya, Tanzania, the Netherlands, Mauritania and many other countries, unions are organising domestic workers, informing them about their rights, offering model employment contracts and guidance on negotiating their working conditions, etc.

9. Collective bargaining is the essence of trade unionism. Because the employers of domestic workers are not always organised, collective bargaining sometimes requires creative solutions suiting national conditions and systems. For instance, in France there has been the Federation for Individual Family Employers since 1948. In other countries, domestic work has been added to existing sectors such as care, agency work, etc.

10. Organising domestic and/or migrant workers in trade unions is limited when national legislation prohibits doing so. Restrictions and unlawful governmental interference with the human right of workers to organise themselves hamper trade union ability to rule out exploitation. In most countries, domestic workers are not recognised as workers and are not covered by labour legislation, undermining their status and rights including the right to freedom of association and collective bargaining.

11. The role of trade unions is obvious in complementing preventive measures, and there is therefore broad experience of trade unions in awareness-raising activities and the dissemination of information about migrant workers' rights. In European countries such as Spain and Italy, a large network of information centres for migrant workers have been put in place. In other regions, unions in Colombia, Malaysia, Kenya, etc., have done the same. It needs to be stressed, however, that providing information on rights is a shared responsibility that must involve governments.

12. I will not dwell on the traditional items needed to develop effective measures and strategies to combat trafficking such as additional research and mapping studies, increased broken-down statistics and adequate legislation with an inclusive definition of forced labour and human trafficking, guaranteeing non-discrimination of domestic workers, etc. My colleagues have already

touched upon that. Nevertheless, I would like to emphasise that legislation needs to be effectively enforced. Some countries have put in place good legislation, but the government does not implement it.

13. It is essential to touch upon two main structural underlying causes of forced labour including domestic servitude. The first is discrimination. It is imperative to mainstream measures against discrimination, xenophobia and social exclusion if we ever want to be successful in reducing the number of workers in forced labour. Women in domestic servitude are victims of multiple forms of discrimination. Gender explains in great part the discrimination suffered by domestic workers. Women in domestic work suffer from sexual harassment, rape and unwanted pregnancy; women's work is undervalued and underpaid; and despite some significant progress over the last decades, girls have less access to higher education, which keeps them captured in a vicious cycle of vulnerability and exploitation.

14. Discrimination is closely linked to the second root cause of trafficking, which is poverty. If people are forced by economic necessity, if people do not have another choice, they will accept any job under any conditions and any means to obtain it. Awareness-raising efforts to warn for the risk of human trafficking are useless if people in reality do not have an alternative. Any measures to combat trafficking should therefore be linked with development and the creation of decent work where people live.

15. Additionally, well intended efforts to combat trafficking are undermined by rigid labour migration policies. The ITUC and its affiliates call for well-managed migration and the creation of decent work and decent work conditions in both countries of origin and of destination. Where there is a demand for labour, including household help, migrant workers looking for work will try to fill the gap. When governments apply very strict labour migration policies, they take the risk of leaving migrant workers in the hands of unscrupulous recruiters, traffickers and smugglers. To give a specific example of inappropriate migration policy in relation to the protection of domestic workers, we can mention the sponsorship systems or other fixed-term visa systems. In these systems, employers act as "sponsors" for migrant workers. These link the worker's residence status in a certain country to an employment relationship with a specific employer. The employer's sponsorship induces abuses, as it gives disproportionate power to the employer, who has the power to send the migrant worker back to the country of origin and prevent him or her from changing employer. The ITUC, together with its affiliates and other international organisations and NGOs, is promoting the ratification of the

UN Convention on the Protection of the Rights of all Migrant Workers and Their Families on the occasion of the 20th anniversary since its adoption. Together with the ILO Conventions 97 and 143, this International Convention offers the necessary rights-based legal framework in which proper migration management could maximise benefits for all.

16. Another area of great concern to the trade unions is that of the practices of recruitment agencies. Labour brokers profit from poorly regulated systems. Recruitment and placement agencies are often condemned for their dishonest or even mafia-like practices, sometimes even forcing men and women into debt servitude. The international trade union movement was, as in the creation of a proposed Convention on Domestic Work, instrumental in bringing about ILO Convention 181 on regulation for private employment agencies. This convention stipulates, in addition to respect for core labour standards, some very clear rules. These, when properly implemented, would have a huge impact on the risk of trafficking. The most important provisions forbid the charging of fees to workers and propose a state system of licensing for or certification of private employment agencies. I would like to highlight the recent encouraging memorandum of understanding signed between UNI and CIETT, the respective worker and employer organisation at the international level, to jointly work on improving standards in the sector going beyond the stipulations of ILO C181 and Recommendation 188. Amongst other things, businesses such as Manpower, Kelly, Adecco, Randstad and USG People commit to principles such as providing a written and signed employment contract before departure as well as full information on all migration requirements in the country of destination, not withholding or confiscating passports, not tolerating contract substitution and not providing false or misleading information, etc.

17. To come back to the issue of enforcement, I will repeat that law and regulations have no impact if they are not properly enforced. For effective enforcement of labour regulations, one needs, aside strong and effective, democratic and transparent trade unions, a labour inspectorate which is adequately resourced, financially and with a sufficient number of labour inspectors, and with proper credentials to access workplaces, interrogate persons and examine and confiscate materials and assets as required (ILO C81). In this sense, in the specific case of domestic servitude, the obligation of the state to guarantee freedom from forced labour clashes with the right to privacy. I am very interested in the example mentioned by the UN Special Rapporteur yesterday of a special section in the labour inspectorate with access to private homes to monitor specifically domestic work.

18. To summarise, workers are increasingly vulnerable to trafficking because of the growing gap between rich and poor countries. Conflicts, hunger and the lack of decent work in their home country force them out to look for a better future regardless of any terms or conditions of travel or work at the destination. This, in combination with restrictive labour migration policies, discrimination and unregulated employment and recruitment agencies, is an environment in which trafficking and forced labour, including domestic servitude, foster.

To conclude, as requested our clear recommendations to counter domestic servitude:

- Recognise the labour market demand for domestic work and adapt migration policies accordingly.
- Forbid the withholding of identity documents by law.
- Increase the ability of all domestic workers to change employers without facing imprisonment, deportation, threat, sanction or penalty.
- Ensure that domestic workers are properly covered by national labour legislation like any other wage earner and are effectively protected against discrimination.
- Regulate the practices of recruitment and placement agencies and enforce prosecution rules with regard to abusive recruitment agents and employers.
- Last but certainly not least, develop national awareness raising campaigns to combat discrimination, racism and xenophobia.

Thank you for your attention.