

## Organization for Security and Co-operation in Europe

OSCE Seminar THB, Vienna 27-28 April 2009

Trafficking for Labour Exploitation in the Agricultural Sector

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### Ms. Laura Germino

Coalition of Immokalee Workers, United States of America

I work with a community-based organization of farm workers, the Coalition of Immokalee Workers (CIW). The CIW has 4,000 members, who harvest primarily tomatoes and oranges in Florida's growing season from September through May, and then harvest everything from tomatoes to apples to squash to blueberries while migrating in the summer throughout the Southeastern US and along the East Coast as far north as New York state. I coordinate the CIW's Anti-Slavery Campaign, seeking to eliminate forced labor on U.S. soil.

When the CIW began in the early 1990s, we did not set out to be an anti-slavery organization – it was formed as a labor and human rights organization, fighting for better wages and dignity for farmworkers. But in the course of our work, we came across first one forced labor case, then another, then another, and it became clear that the initial cases were not anomalies, but rather that an all-too significant percentage of the overall farm workforce is being held against their will. So today, we have an Anti-Slavery Campaign focusing on investigation, training, and prevention as part of our organization's overall mission. The cases we helped uncover include U.S. vs. Flores, U.S. vs. Cuello, U.S. vs. Ramos, U.S. vs. Evans, and, concluded just this past December, U.S. vs. Navarrete – freeing more than 1,000 workers and putting more than a dozen employers behind bars. The slavery charges are brought under federal laws stemming from the 13<sup>th</sup> Amendment.

These modern-day slavery operations have been multi-state (based in Florida but operating in the Carolinas and Georgia during the summer season) and multi-worker (involving from 30 to 700 workers). In such instances, workers too poor to pay up-front for transport may incur a debt of \$1,000 for a ride from Arizona to a job in Florida, a 3-day ride with 30 workers crammed into a van. They're told they'll pay off the debt quickly. They are told upon arrival that they can't leave until the "debt" is paid, in the words of one employer greeting his new workforce, "and if you go to the law, I'll cut your tongues out." Once at the job, the workers are then paid as little as \$0 to \$20 a week, as debt mounts as well for rent, food, rides to the fields, work equipment. Employers use violence – beatings, shootings, pistol-whippings – and threats of violence, such as death threats to families, to keep workers from leaving. Armed guards and informants with cell phones keep workers under constant vigilance. Visitors have been run off, blocked in, shot at. In that most recent Navarrete case, tomato pickers were housed – if you can call it that – in windowless panel trucks, locked in at night; beaten, and had their feet chained to posts. One night over Thanksgiving holiday, a few workers escaped by gouging a hole out of the metal door of the locked truck. Some made their way to the police and others to the CIW's center. The employers are now serving 12 years each in federal prison.

How is it that we came across such operations? How do you identify them in the first place? Fundamental to successful identification is that slavery does not exist in a vacuum; it does not

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exist in isolation; but rather is at the extreme end of a continuum of labor abuses. Already degraded labor environments provide the fertile soil in which slavery can take root; in U.S. agriculture, these underlying conditions include sub-poverty piece rate wages, no benefits, no right to overtime pay, no right to organize. That environment, by the way, is much more important than the workforce's immigration status in determining whether slavery operations will flourish. Put another way, if it's assumed that only undocumented workers, or only immigrants, are potential victims, you'd miss an opportunity to identify cases.

This concept, that slavery does not exist in a vacuum, not only helps law enforcement or policymakers identify potential sectors, but also applies to identifying cases through the means of community education. Such education and outreach -- with the goal of identification of specific slavery operations through community awareness -- produces much more results when the efforts take place in a context of education on labor rights in general, rather than confining such outreach around slavery/human trafficking alone.

We now have a network of members who work across the Southeast who can report suspected instances of peers being held against their will, because the community as a whole has been educated on the issue. We have staff and members who conduct labor rights outreach at worker housing, through house-to-house visits up north, as well as community radio programs and weekly meetings in our home base. This anti-slavery education takes place within a broader framework of overall labor and human rights campaigns. If a degraded labor environment does tip over into actual slavery – and I'll discuss in a minute the difference – peers of the captive workers will recognize it and will also understand that something can be done about it.

A specific example: In the Ramos slavery case, it was not farmworkers themselves, but rather, taxi-van drivers based in our town Immokalee who reported the initial tip to the CIW. In the U.S., taxi-vans frequently transport “free” workers traveling to other states for jobs. The Immokalee drivers had stopped in a small rural town of Lake Placid on the side of an interstate highway one night to make what they thought was a standard pick-up of passengers at a store meeting place. Six men with guns pulled up in pick-up trucks and attacked the drivers and vans. The men held up the passengers at gunpoint and pistol-whipped the head driver for “stealing their people.” It turned out that the armed men were farm bosses who did not want captive workers in their town to have a way out to go work elsewhere. Late that night, in the mayhem, the van drivers managed to call both 911-emergency and the CIW. The local police did arrive and charge two of the attackers with aggravated battery – but because the van drivers had heard the general community education on labor rights, including slavery, they knew to report it to CIW. And we all knew that the van drivers were like the proverbial canary in a coal mine – if

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they were getting attacked for providing a ride out of town, then workers were being held somewhere nearby. We ended up helping uncover a massive operation involving three employers and seven hundred fruit pickers, which was federally prosecuted.

Also, when speaking with workers still held captive (if such access is possible), discussing their overall labor rights, including the right to work freely, is far more effective for successful identification, for two reasons. One, workers themselves do not compartmentalize their experience the way the law does. Second, it provides a cover for broaching the subject of forced labor if informants are present. Again, in the Ramos case, after we identified a possible camp, we had a very brief window of time to talk with the workers while the head bosses were absent (at Palm Sunday Mass, ironically). We did not want to signal exactly what we suspected in case bosses' informants were in the group. We approached workers as if we were doing general labor rights education, speaking of how "you have the right to minimum wage, the right to decent housing, the right to leave and go work elsewhere, even if you owe a debt," at which point a worker interrupted and said, "Oh no, they don't let us leave here." This was a breakthrough, a confirmation. Eventually we helped four workers escape, who testified against their former captors, now serving 15 years in federal prison after the DOJ prosecution.

That slavery occurs only within an already-exploitative context is also useful for discerning between the crimes of smuggling and trafficking, as well as between labor exploitation and trafficking. First, smuggling: trafficking does not have to involve smuggling or a border – and its victims are not necessarily undocumented or even immigrant. Trafficking simply involves obtaining a workforce for the purposes of holding them in involuntary servitude, peonage, slavery. Smuggling involves a willing participant who pays a fee for the service of an unauthorized border crossing; it is a crime against the state, not the person. It can of course evolve into trafficking, if the worker smuggled is not then allowed to leave a workplace to work elsewhere to pay off the smuggling debt.

The distinction is also clear when realizing that U.S. trafficking cases have involved undocumented immigrants, guestworkers here on visas, permanent resident (immigrants), and U.S. citizen victims. Guestworkers obviously are not smuggled, but come here legally. It's the fact that they are legally bound to one specific employer (in the U.S., "no portability") that makes them highly vulnerable to being held against their will. Abusive employers of guestworkers control their jobs, housing, transport, communication with the outside world, and their passports. In one of our cases, U.S. vs. Ron Evans, the employer recruited at homeless shelters across the Southeastern US – from New Orleans to Tampa to Miami. He would promise homeless people – all U.S. citizens – good jobs and roofs over their heads picking cabbages and potatoes up at labor camps in rural north Florida or Carolina. He targeted recovering and current

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substance abusers. Once they were in the van to go to the new job, he would start plying them with crack cocaine and alcohol. At the camp, surrounded by barbed wire and fences, he paid them in crack cocaine. He is now serving 30 years in federal prison.

Most slavery victims now are immigrants because the workforce is mostly immigrant. But when the workforce was mainly U.S. citizens, a similar percentage were held against their Undocumented status is of course is a factor, because it increases vulnerability, just as being poor and homeless, or a guestworker, does. Immigrant status, however, is not the key factor, and that is important to keep in mind when searching for solutions. If labor exploitation -- "sweatshop conditions" -- did not exist in the agricultural industry, slavery could not take root, regardless of the workforce's citizenship status.

What about the difference between labor exploitation and trafficking? What are the indicators that tip abusive environments over the line? Let's say you have workers earning \$2 a day, living 15 to a trailer, verbally abused, perhaps even physical violence. But can those workers leave that miserable low-wage job with an abusive boss, to go to some other miserable low-wage job? If they can walk away without being in fear for their and their families' lives, they are not trafficked. That's why it's key to follow-up if a worker tells you that "I can't leave," with the question. "Why can't you leave?" And the answers come, "We aren't allowed to leave," or "I fear for my life." And the follow-up continues, "What happens if you or someone else tries to leave?" The answers can be varied -- from physical harm to threats of killing families back home. In the case of labor exploitation, worker defiance may be met with the boss firing them; again, they were able to leave, in that instance, unwillingly. Of course, because of the continuum we spoke of earlier, agencies focusing on workers' rights will come across slavery cases -- the key is to recognize them. Take the Ron Evans case mentioned earlier. A homeless outreach center in Miami, wanting to go beyond doling out clothes and food, piloted a Workers' Rights Project to determine why people ended up homeless in the first place. Their standard intake for people recently made homeless included the questions, "Where was your last job, and why did you leave it?" One man told them, "In the fields up north, because the boss pulled a gun on someone who asked for his pay, and I had to escape." The project was not an "anti-slavery project" per se, but certainly evolved into one. When the center called us and asked us if we knew Ron Evans or what town he was in, we knew the exact town and camp location, and events transpired from there.

Overall indicators for trafficking can be control over workers' housing, job, transportation, communication back home, visitors (or lack thereof), telephone use -- but none of those are definitive. While some workers live down dirt roads on isolated growers' farms behind fences, others are housed right in town or along highways. But the climate of fear and coercion,

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and fear of the unknown community surrounding them, isolates such workers while in plain sight. I have also just spoken a lot of hands-on violence and weapons, which is the pattern in many agricultural workers' cases, but some of the hardest cases to solve are those in which the employers rely on threats to the victims' families back home, never resorting to weapons.

Next steps, after identification: the nature of this crime demands that government, law enforcement, and NGOs work together eliminate specific operations, since prosecution of this crime depends on witness testimony, not physical evidence. Reputable NGOs can build trust and introduce victims and witnesses to law enforcement, and can share specialized expertise of the particular sector. In agriculture, NGOs understand the special difficulties in maintaining contact with witnesses, given the migratory nature of the work, the many languages spoken, the lack of fixed addresses, or for workers from rural nonliterate societies, a limited ability to communicate through government voicemail and other technology. And on the law enforcement side, training for first responders to recognize the problem makes a huge difference. Trafficking operations can result in a high level of violence in a local community. In the Flores, Cuello, Ramos cases, local police responded repeatedly to 911 calls coming from employer-controlled housing about shootings, disputes over a debt, beatings, pistol-whippings. In those days, such incidents were viewed in isolation as a state charge, rather than considering it in the context of a slavery operation. So, from a law enforcement perspective, when responding to a fight over a debt – was it a gambling debt between two workers? Or an employer beating on a worker for not paying his transport debt? The latter opens up the possibility of eliminating a violent operation from the community, but recognizing that takes education.

In the Navarrete case, all the elements came together, as a result of years of working together. Some escaped workers first talked with local road patrol through the help of an unlikely Immokalee good Samaritan who knew slavery existed from CIW's broader community education efforts. The road patrol officer had received roll-call training on slavery, and thus knew not to dismiss the report as ramblings. That officer then contacted the detective in the anti-trafficking unit. Still other workers from the Navarrete camp first made their way to the CIW, which they knew to come to from hearing community radio broadcast in their language. Local police, CIW and the federal prosecutors we knew from previous cases all collaborated on the successful prosecution. One more thing -- in human trafficking cases, it's key to use a human rights approach, rather than an organized crime approach, and NGOs can play a very important role in ensuring the investigation remain rooted in human rights principles.

I want to end with mentioning, for the policy makers and all others interested, that we believe we must get beyond identification and investigation to the point of prevention. Through the CIW's broader Campaign For Fair Food, we have been able to reach agreements with the

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large purchasers of tomatoes whereby they are legally obligated to cut off purchases in the event slavery is discovered in their supply chain, and the latest case, Navarrete, has provided the first-ever test of those agreements, which are today in the process of making prevention a reality.

Another concrete example: in another instance, we were visiting “normal” labor camps in South Carolina during the summer tomato harvest, again, discussing labor rights. A young woman from Guatemala volunteered that she and six other workers had not been paid last wages at the last camp they’d worked at. We asked why, and she said, “Because we had to leave in the middle of the night.” We asked why they had to leave in the middle of the night. She said, “Because the bosses shot someone in the stomach who wanted to leave to go work elsewhere.” As you see, the indications of an ongoing peonage operation were not what she initiated the conversation with. The conversation resulted, however, in her telling us that the camp was “three hours north, near the town of Manning, it’s called the Red Camp, the boss is Miguel Flores.” No other address. Through investigation, we found the location. The information fit with a vague rumor that we’d heard in the Immokalee community – because active members knew to watch out for such things -- that another boss, Sebastian Gomez had “killed a man in North Carolina who wanted to leave a camp.” It turned out Flores, who we’d never heard of, worked with Gomez, that it was South Carolina, not North Carolina, but it was all important for piecing together the puzzle. Flores ran a 400-500 person operation with armed guards, with workers toiling 12-hour days, seven days a week, for at times \$0-\$40 a week, waking workers with gunshots for alarm clocks, beating, pistol-whipping, and sexually assaults. He’s still serving 15 years in federal prison after we worked with US Department of Justice to prosecute.

Identification and Enforcement – audience – policy makers and law enforcement

Broad categories

Sketch out what the cases look like

Id in the sense of “slavery doesn’t exist in a vacuum”

Also what to look for – not just undoc., also guestworker, etc. not necessarily a border (clarifies smuggling issue).

People moving, need to follow up on leads (gets into investigation though)

Also why work with NGOs – provide introduction, flexibility, urgency, etc.