



Organization for Security and Co-operation in Europe
Office of the Special Representative
Co-ordinator for Combating Trafficking in Human Beings

OSCE HIGH LEVEL CONFERENCE
HUMAN TRAFFICKING FOR LABOUR EXPLOITATION/FORCED AND
BONDED LABOUR:
PROSECUTION OF OFENDERS, JUSTICE FOR VICTIMS
VIENNA

16-17 November 2006

Excellencies,

Dear Deputy Ministers,

Dear National Co-ordinators and Rapporteurs,

Dear Ambassadors,

Dear Colleagues from the Alliance,

Ladies and Gentlemen,

It is my great pleasure to welcome you today – a special day for me, as this is my first conference in my new capacity as Special Representative.

I appreciate the support provided by the Belgian Chairmanship and the presence of Mr. Donfut to open our event. I would also like to thank the Secretary General for his opening remarks and for placing this event in the context of the increasing efforts of the OSCE to address trafficking for forced and bonded labour.

The issue on our agenda today is the exploitation of men, women and children, human beings, for labour exploitation.

- Although it remains unknown how many individuals every year are bought and sold, abused and deceived to be coerced into situations of exploitation that amount to slavery, research from NGOs, academics, international organizations has shed some light on trafficking for labour exploitation.
- We know that women and men subject to involuntary servitude suffer serious abusive and violent treatment in garment factories. Children and women exploited as domestic servants and subject to psychological abuse and threat of denunciation to the authorities. Adults and children are subjected to debt bondage & acts of violence in the agricultural sector; in various industries, in construction and in the hospitality sector. Women and men forced to work in slave labour camps, without wages and living in conditions of extreme degradation, segregated and abused, in both the informal as well as formal economic sectors.

This list of abuses is endless.

The forms of abuse may vary.

One element remains constant: the denial of even the most basic of human rights of trafficked persons.

What do we know about the men, women and children who are trafficked for forced labour?

- Most of these individuals are migrants; others are vulnerable or socially-excluded nationals. All are in situations from which they cannot escape, where they have "no real and acceptable alternative but to submit to the abuse involved."¹²

Many of these migrants have no secure resident status within the country of their exploitation, do not speak the language, are unaware of their rights, are unfamiliar with migration and labour laws in the host country, are marginalized and discriminated against, and depend heavily on their exploiter for boarding and lodging, for keeping their passport, for making contact with the outside world. They are the preferred "*employees*" because they are hard working and flexible, and they are unwilling and/or unable to protest and denounce.

- Nothing I have just said should come as a surprise.

¹ UN Doc A/55/383/Add.1 UN 3 November 2000 Para 63.

- We are talking about a centuries-old problem which continues into present times, and has become a cause of serious concern in the OSCE region.
- However, notwithstanding the rhetoric that has risen up in protest of this abuse, and the large attendance at last year's conference on Trafficking for Labour Exploitation, we know that trafficking as a problem of forced labour was the least frequent response in a survey conducted among the participating States in 2005 as a follow up to the SR questionnaire on the implementation of anti-trafficking commitments and obligations coming from the Trafficking Protocol, as well as recommendations of the OSCE Action Plan to Combat Trafficking in Human Beings.

A multifaceted issue requires multiple responses

- Human trafficking for labour exploitation is a multifaceted problem. Its root causes are complex, its offenders keenly adept at remaining outside the law, and its preponderance spreading. Combating this problem should be seen in the context of globalization, of the widening gap between the rich and the poor, of social and economic inequalities, of migration policy and labour market stratification, discrimination and xenophobia, crime and justice, corruption and rule of law.
- Further political, legal, social and economic reforms are necessary in all of these areas to combat trafficking for labour exploitation in countries of origin and destination.
- It is the responsibility of States to address these structural issues and create an environment where exploitation cannot flourish. And this requires concerted efforts, not only in the most significant criminal justice sphere, but also in all the other relevant policy areas. Many studies on trafficking for labour exploitation indicate that certain immigration and labour policy practices (e.g. linking a visa to a single employer, lack of monitoring of labour standards, complete deregulation of certain labour market sectors) contribute to exposing migrants to risks of trafficking for labour exploitation and require State intervention to change them and to provide for dedicated commitment to training and resources.

The challenge ahead: creating an environment which is hostile to the exploitation of individuals

- Despite the rapid progress in developing the international legal framework to prevent and combat THB, not all OSCE participating States have ratified the

Trafficking Protocol, nor have they criminalized THB for labour exploitation. Furthermore, even when such legislation has been adopted, these instruments are not implemented and their interpretation and application vary from country to country.

- Few cases of trafficking for labour exploitation are detected, few victims are identified and protected, and few perpetrators are actually prosecuted and convicted in the OSCE region.

This may be due to a variety of reasons, including:

- The newness of legislation. Laws addressing labour trafficking are relatively recent, and it may be early to assess their impact. Yet often they do not fully comply with requirements set in Palermo. Available experiences signal that there are inconsistencies. Further definitional clarity and guidance on the concepts of forced labour, coercion, abuse of vulnerability is required.
 - The lack of resources. Addressing THB for labour exploitation is not prioritized. Few resources are committed to detection and identification of cases, as well as to protection of victims and training of officials.
 - The disproportionate focus on combating illegal immigration. This often results in an approach which is excessively focused on the individuals' immigration status rather than on the conditions of their exploitation.
 - The absence or the weaknesses of protection schemes for victims of such trafficking. (Available services are insufficient, under-resourced or targeted only at female victims of trafficking for sexual exploitation and in some instances child victims). Despite the lessons learned in dealing with THB for sexual exploitation, many countries are still reluctant to acknowledge that there is a strong connection between identification and protection of victims' rights and chances of criminal justice agencies to secure prosecutions and gain convictions of perpetrators for THB.
 - Add to these the inherent evidential difficulties in establishing such a complex criminal offence as trafficking and combine this with the major challenges of cross-border police and judicial co-operation.
- This situation must change. Participating States need to overcome these obstacles and establish effective, proportional and dissuasive measures against traffickers, combined with remedies to compensate victims for damages and harm suffered.

- It is high time to tackle the invisibility of human trafficking for labour exploitation. The **approach** must be **proactive**, and the focus must be **on detecting** situations of **exploitation**. And this alone is not enough. Protection and support need to be available for the victim, if we wish to obtain a full and detailed account of what has happened to the individual and to elucidate the circumstances of coercion and abuse of vulnerability.
- And to achieve this, we need a **co-ordinated and committed inter-agency approach** between labour inspectorates, police, immigration, welfare services, judiciary and NGOs effectively co-operating both **to the detection of cases** of THB for labour exploitation and **to finding solutions for victims**.
- We know that **the reality of individual cases is complex**. Let me explain.
- There is often a very fine line between labour exploitation and substandard working conditions (which are breaches of labour law). THB for labour exploitation involves a wide range of situations, it involves multiple coercive, abusive and exploitative elements over a period of time, which may be difficult to detect.
- We need to **set a norm for exploitation** and to find ways to recognize the shackles that give no choice to the worker of walking away from the job and trap the person in a condition of enforced dependency and forced labour.
- In other words, we need to **recognize** that cases of THB for labour exploitation include not only irregular migrants but also legal migrants, whose **position of vulnerability**, often with limited language skills and knowledge of their own rights, isolated and discriminated, is exploited by traffickers for forced labour. The same can be said about victims of THB for labour exploitation within the borders of their country of origin.
- A **pragmatic approach** is required which allows for law enforcement to have a range of tools to respond to the various levels of this criminal phenomenon.

It is pointless to deny the **difficulties in establishing reliable evidence** for the full offence of human trafficking for labour exploitation. Nonetheless, to **reduce impunity** and assist in securing prosecution, *prima facie* evidence of THB could come from **complementary offences**, which (as the ILO recommends) often **point to situations of forced labour** and are easier to prove, such as threat of denunciation to the authorities, the seizure of identity papers, and the withholding of wages etc.

- A **pragmatic approach** is also necessary to **improve access to remedies** for victims, which include criminal justice remedies and compensation claims for breach of labour rights. These forms of reparation need to be **effectively available**, while all too often victims are expelled or not entitled to make claims because of their status and traffickers/exploiters go unpunished. Participating **States should**, instead, **proactively enable** trafficked persons to **claim justice** in court, through raising awareness of rights and providing **legal counselling and representation**.

What do we wish to achieve during this conference?

- There is no shortage of challenges ahead of us to create an environment conducive to preventing trafficking and exploitation. This conference is an opportunity to start sharing successful experiences and to begin addressing some of the challenges. It is a forum for all of us to share our knowledge and expertise, the lessons we have learned in the implementation of the OSCE anti-trafficking commitments. I am grateful to the many qualified and experienced speakers who have come to be with us today, to provide their expertise and wisdom. I am most pleased to see such a large participation from so many capitals, and I look forward to hearing the interventions informing us of efforts among the participating States.
- The challenges ahead call for a proactive and pragmatic approach to the problem. Our departing point should be the exploitation of people for forced labour. And we can recognize such situations only if we proactively monitor and investigate the phenomenon. We will need sophisticated tools to deal with this complexity, as well as we will need to develop concrete guidance for law enforcers to recognize situation of abuse of vulnerability and to be able to apply the law, punish perpetrators and provide legal redress for the victims.

I wish you a most productive profitable experience at the conference.