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OSCE Human Dimension Implementation Meeting
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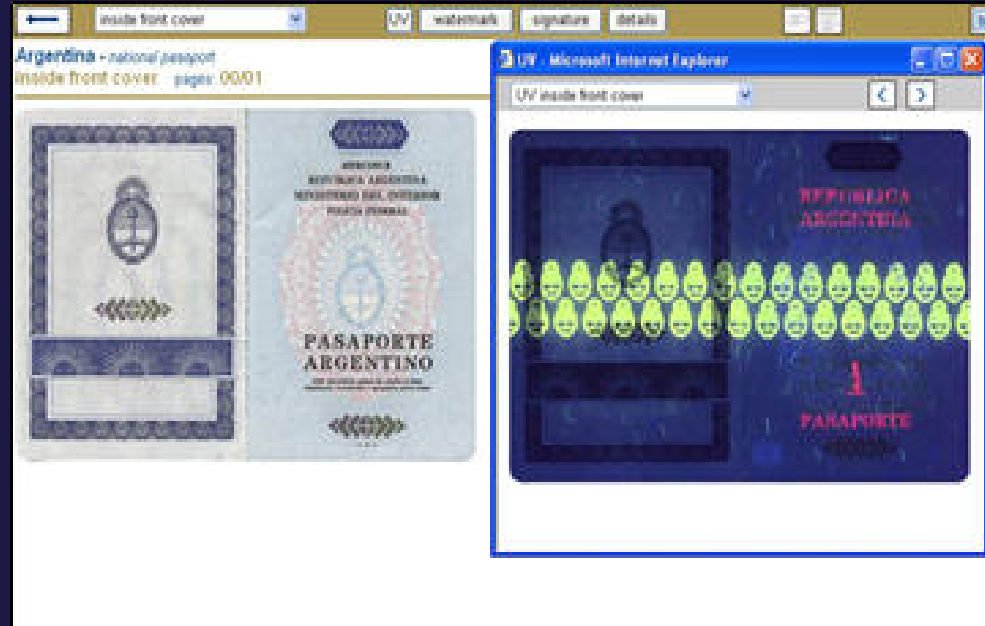
Demand for “trafficked” labour: individual and state responses

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EU EXPERTS GROUP ON TRAFFICKING IN HUMAN BEINGS, 2004

“From a human rights perspective, there is no reason to distinguish between forced labour involving ‘illegal migrants’, ‘smuggled persons’ or ‘victims of trafficking’”



Considering Demand: Pros

- **Implies that it is possible to adjust/eliminate markets**
 - Possible for market participants to act as moral agents as well as promoters of efficiency
- **Responsibilities of receiving states**
 - Identification and protection (NB contradiction trafficking as *administrative category* and *descriptive term*)
 - Role of the state in constructing markets for vulnerable labour: to what extent does the state balance the “demand for inexpensive labour and the possibilities of regular migration”?

Considering Demand: Cons

- Risks ignoring structural economic and socio-cultural factors
 - Populist and moralising responses
- Expansion of state powers
- Need also to consider the relationship between supply and demand

BEING GOOD: MARKETS & MORAL AGENTS

- What can and what cannot be ethically traded across a market?
- What is it to “act ethically” within a market?

GOOD OR EVIL
Who Decides?

Meeting Demand: Why Migrants?

Vulnerability makes them more hardworking, flexible, with fewer options

“They have a greater incentive to work because they desperately need the money..... She’s dependent for money, so I think it’s a circle that works well so that I can keep her”

British housewife

The importance of retention

Labour mobility

Not just problems of recruitment but of *RETENTION*: Control over the length of time that a worker works

Quitting as source of conflict and negotiation between workers and employers:

- Employers balancing “external” flexibility vs retention
- Workers balancing insecurity vs ability to move on

Labour control

“I have heard more than one lady declare...that she didn't care if it was unjust, she should like to have slaves rather than be plagued with servants who had so much liberty”

Harriet Beecher Stowe

“especially with the illegal, they're so desperate for work... believe me, especially if they're migrant workers, they're so frightened of getting kicked out that they're not going to pull any stunts”

British/American housewife 2004

“A guy who doesn't have permission to work is gonna [...] perform... You've got no worries about him suddenly saying 'ooo, I've hurt my back”

Agricultural employer: *Changing Status, Changing Lives?*

Opportunity not Exploitation: Employment as favour



Social and Education Measures

- Peer pressure as limiting/facilitating exploitative practises
- Importance of critiquing “employment as favour”
- Importance of challenging idea that physical violence is a defining feature of trafficking.
- Association of “trafficking” with prostitution
- Need to address power imbalances
- Need to address economic and other pressures to maximise profits from and to control labour
- Relying on employer/consumer “goodwill” not sufficient

Putting the State Back In

“Demand must be understood expansively as any cat that fosters any form of exploitation that, in turn, leads to trafficking”

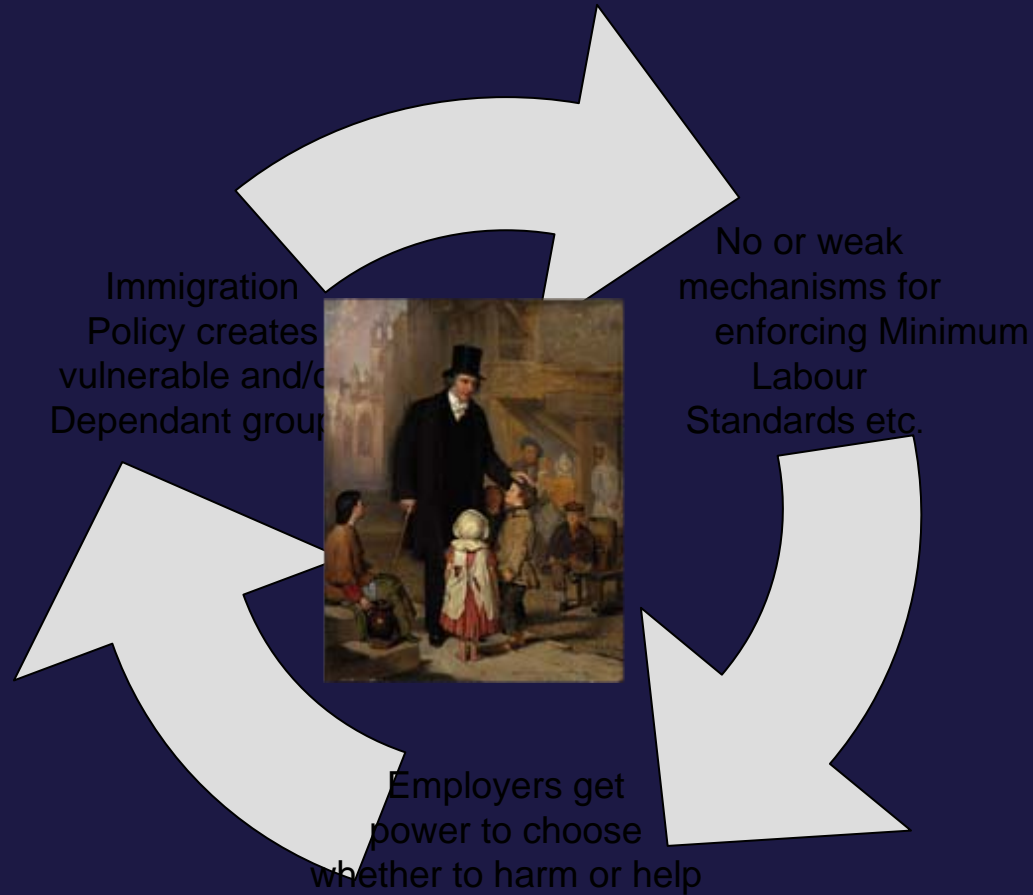
UN Special Rapporteur Report on Human Rights Aspects of Trafficking 2006

How do states contribute to creating spaces in labour markets where abuses occur?

Policy and Practice

- Precarious work
- Sub-contracting, employment relations confusion and personalised power relations (NB Gangmasters Licensing Act)
- Cash payments for care
- **Invisibility of state unleashes a radically free 'free market'**

Giving employers the power to either harm or help



Conclusions

- Need to consider how states are implicated in the creation of radically free markets. What mechanisms are there to protect human rights of all workers?
- Forced labour a violation of a fundamental human right.
- How mechanisms of retention may breach human rights, and how they may be related to immigration legislation.
- Focus on forced labour and employment related aspects
- **Trafficking legislation must not be used to further restrict the basic human rights of migrants – thereby risking increasing “supply”**