

# HUMAN TRAFFICKING

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## HEARING

BEFORE THE

### COMMISSION ON SECURITY AND COOPERATION IN EUROPE

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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OCTOBER 11, 2007

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# HUMAN TRAFFICKING

OCTOBER 11, 2007

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## HUMAN TRAFFICKING

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October 11, 2007

COMMISSION ON SECURITY AND COOPERATION IN EUROPE  
WASHINGTON, DC

The hearing was held at 10 a.m. in room 2226 of the Rayburn House Office Building, Washington, DC, Hon. Alcee L. Hastings, Chairman, Commission on Security and Cooperation in Europe, presiding.

*Commissioners present:* Hon. Alcee L. Hastings, Chairman, Commission on Security and Cooperation in Europe; and Hon. Mike McIntyre, Commissioner, Commission on Security and Cooperation in Europe.

*Witnesses present:* Charlotte M. Ponticelli, Deputy Undersecretary for International Labor Affairs, Bureau of International Labor Affairs, U.S. Department of Labor; Mark Lagon, Director, State Department Office to Monitor and Combat Trafficking in Persons; Michael E. Feinberg, Acting Director, Office of International Affairs, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security; Eva Biaudet, Special Representative and Coordinator for Combating Trafficking in Human Beings, Organization for Security and Cooperation in Europe; Roger Plant, Head, Special Action Programme to Combat Forced Labour, International Labor Organisation; and Kevin Bales, President, Free the Slaves.

### HON. ALCEE L. HASTINGS, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. HASTINGS. Good morning, all. I'd like to start the hearing and welcome everyone, ladies and gentlemen, to this Helsinki Commission hearing on combating trafficking for forced labor purposes in the OSCE region, including the United States.

When we designated the time for this hearing, we did not know the interventions [inaudible] and one of our more distinguished colleagues passed last week, and today she's being laid to rest in Virginia.

Toward that end, many of my colleagues are attending that funeral, and some of the Commissioners. The House of Representatives is not in session. But hey, I am. [Laughter.]

As matters go, we do have an established record, and I think that this subject is of such critical importance for the Helsinki Commission, the OSCE and, indeed, the world [inaudible] I will see to it that the information is passed on to the other Commissioners and the House and the Senate.

Please bear with me. I have a rather lengthy statement, but I consider all of it to be of critical import in setting the stage.

Trafficking in human beings is an egregious human rights violation and a serious transnational crime facing governments all over the world.

According to an International Labor Organization report—and we have our friends here from there—of the 12.3 million victims of forced labor—approximately 2.4 million were trafficked for forced labor purposes.

Trafficking for forced labor is a major problem in many OSCE countries. In Armenia, for example, both men and women are trafficked for forced labor while an International Organization for Migration report asserts that 38 percent of trafficked persons assisted by the International Organization for Migration in Belarus were male victims of forced labor.

Although the United States, like many other OSCE states, continues to be challenged by limitations in the systems utilized for data gathering in human trafficking cases, we've seen some progress in our antitrafficking efforts.

There have been significant cases. In one of them—U.S. Immigration and Customs Enforcement, working with the FBI, successfully investigated and prosecuted organized criminals who were trafficking Eastern European women into the United States to work as exotic dancers in Michigan.

In his book “Nobodies: Modern American Slave Labor and the Dark Side of the New Global Economy,” John Bowe describes three cases of forced labor in the United States in Immokalee, FL, which is very close to the district that I'm privileged to serve, and Tulsa, OK, and Saipan, a U.S. commonwealth in the Western Pacific.

Trafficking for forced labor frequently involves physical and psychological abuse of the victims, generates millions of dollars in illicit financial profits to the perpetrators, which are often organized criminal groups, and leads to the thousands of migrants crossing international borders with fraudulent documents.

Trafficking persons for forced labor purposes is less understood than trafficking for sexual exploitation, because it has largely remained a hidden form of exploitation.

However, it is no less serious. In the OSCE region, it has accelerated in recent years as a result of the economic disruption caused by the collapse of Communism in the former Soviet Union and Eastern Europe as well as the wars in the former Yugoslavia.

Commissioner McIntyre, welcome, sir.

Mr. MCINTYRE. Thank you.

Mr. HASTINGS. A high worldwide demand for women and children as sex workers, sweatshop labor and domestic servants has fueled the market for forced labor.

At the same time, increasing restrictions on immigration to many destination countries, including the United States and Western Europe, has led many migrants to turn to human traffickers despite the risks involved.

The OSCE demonstrated its commitment to combating trafficking in human beings in 2003 with the adoption of the OSCE action plan to combat trafficking in human beings.

Among other requirements, the action plan calls upon participating States to make forced labor a crime by incorporating the definition of human trafficking contained in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children.

The establishment of the position of special representative and coordinator of combating trafficking in human beings has given greater focus to addressing this critical challenge in the OSCE region.

Since the adoption of these antitrafficking protocols, the OSCE participating States have made some significant strides in combating the sexual dimension of human trafficking, but there is a growing consensus that more needs to be done to understand the scope and challenge of humans trafficked for forced servitude.

Presently, many participating States have not adopted legislation to specifically address trafficking for forced labor purposes.

In addition, much of the resources and early antitrafficking efforts have been directed at identifying and prosecuting sexual trafficking cases.

The U.S. Trafficking Victims Protection Act of 2000, which was authored by the Helsinki Commission Ranking Member Christopher Smith, includes in its definition of human trafficking, “the recruitment, harboring, transportation, provision or obtaining of a person for labor services through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt, bondage or slavery.”

Yet we’ve seen relatively few prosecutions of forced labor perpetrators. A September 23rd Washington Post article on the subject of human trafficking raises several questions which are worthy of examination, and perhaps our witnesses this morning will address some of them.

Are there, in fact, significant numbers of trafficking cases that go undetected? Ms. Biaudet and I were talking about that earlier, and I’m sure she will address it.

Do we simply not have a full grasp of the scope of human trafficking? Or conversely, how reliable are trafficking statistics?

This morning we examine these issues as we hear from two expert panels on efforts to combat trafficking for forced labor purposes in the OSCE region.

We look forward to the testimony of three key U.S. Government agencies represented by Ambassador Mark Lagon from the Department of State, Ms. Charlotte Ponticelli, from the Department of Labor, and Mr. Michael Feinberg, from the Department of Homeland Security’s Immigration and Customs Enforcement.

We are also grateful to have my friend and a person that has worked actively in this field and continues her participation, Ms. Eva Biaudet, the OSCE’s special representative and coordinator for combating trafficking in human beings.

We have with us Mr. Roger Plant of the International Labor Organization, and Mr. Kevin Bales of Free the Slaves.

The witnesses’ bios are available at the entrance for those of you that did not receive them.

We've been joined, as I indicated, by my colleague Congressman Mike McIntyre, who is a Commissioner of the Helsinki Commission.

And, Mike, if there's anything you would like to add at this point, you have the floor.

**HON. MIKE McINTYRE, COMMISSIONER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Mr. McINTYRE. Thank you, Mr. Chairman. I'll be brief.

We greatly appreciate those who are here with the panel today and those who've come to observe this hearing.

This is an extremely important issue. Even though I can only be here for a short while this morning—as many of you know, we are not in session this day—but I wanted to make sure I could come by this morning for a while, because this hearing is so important.

This past July, the OSCE Parliamentary Assembly—I sponsored a resolution to encourage OSCE member nations to establish a hotline for reporting the commercial exploitation of persons involved in human trafficking.

And as a sponsor of that resolution, which did pass unanimously this past July the OSCE Parliamentary Assembly, I wanted again to show my support for efforts like that to get our member states involved in reporting incidences like this and setting up hotlines and cooperating, because it is such an important issue and, unfortunately, such a serious one that still must be dealt with.

So thank you, Mr. Chairman, for having this hearing.

Thank you all for being with us today.

Mr. HASTINGS. Thank you very much, Mr. Commissioner. I appreciate very much your being with us.

Mr. McINTYRE. Yes, sir.

Mr. HASTINGS. Mr. Ambassador, you lost your place when you weren't here at 10 o'clock, so we're going to begin with Ms. Ponticelli, and then we'll come back to you. [Laughter.]

So without objection, your prepared statements will be entered into the record.

Ms. Ponticelli, you have the floor.

**CHARLOTTE M. PONTICELLI, DEPUTY UNDERSECRETARY FOR INTERNATIONAL LABOR AFFAIRS, BUREAU OF INTERNATIONAL LABOR AFFAIRS, U.S. DEPARTMENT OF LABOR**

Ms. PONTICELLI. Thank you, Mr. Chairman.

Thank you, Chairman Hastings and Congressman McIntyre. I'm very pleased to be here today on behalf of the U.S. Department of Labor. We commend you for holding this hearing on the trafficking of humans for the purpose of forced labor, one of today's worst human rights tragedies.

It's an honor to be here today with my fellow panelists, even the ones I bumped. Of course, all of them are dedicated to the global fight against human trafficking.

As you pointed out, the United States is committed to ending the brutal practice of human trafficking. As President Bush stated at the signing of the Trafficking Victims Protection Reauthorization Act in January 2006, quote, "Our Nation is determined to fight and end this modern form of slavery," end quote.



In signing that legislation, the President also called upon other nations to take action. The U.S. Government is working at home and with other governments, such as the 56 countries participating in the OSCE, to eliminate human trafficking around the world.

Individually, we can all make a difference, but together, we can have an even greater and more lasting impact.

Across the world, the transnational phenomenon of human trafficking involves trafficking both for sex and labor exploitation.

Trafficking for commercial sexual exploitation in OSCE countries, particularly in Eastern Europe, opened the world's eyes to the global problem of trafficking, yet, as we know from the ILO's 2005 report, most victims of trafficking in the world are actually victims of forced labor.

Private agents typically traffic these individuals through coercion, forcing them to toil in sweatshops and other hidden workplaces under brutal conditions with no access to legal protection.

In the OSCE region, the trafficking of adults for forced labor in the construction and agriculture industries is pervasive. And the trafficking of children for commercial sexual exploitation and labor remains a grave problem.

While the Department of Labor, of course, is adamantly opposed to the trafficking of any individual, our Bureau of International Labor Affairs has made a special effort to eradicate the trafficking of children.

Children specifically trafficked for labor find themselves forced into begging, petty crime, street vending and domestic work, or work in agriculture, construction or manufacturing. They are often physically abused, underfed, addicted to drugs or alcohol, and have no access to education and health services.

The illicit and hidden nature in which human trafficking occurs sometimes makes the search for solutions seem insurmountable.

Yet as you pointed out, Mr. Chairman, significant progress is being made, especially in research and data collection, which are key tools in this fight.

Together with OSCE member states and other partners around the world, the United States has underscored the need for reliable research and data on the nature and magnitude of the trafficking problem to help us design and implement effective policies and programs for prevention, protection, and assistance to victims.

At the same time, we recognize that the development of policy and collection of data should not preclude the immediate and urgent need to rescue those who have been trafficked for forced labor and provide them with education, job skills and economic alternatives.

Our Bureau of International Labor Affairs has been active in combating trafficking around the world, including in many OSCE countries and has enlisted the support of several international, non-governmental and faith-based organizations.

So far, more than 1 million children have been rescued from the worst forms of child labor and provided with education and training opportunities through our DOL-funded projects.

Since 1995, DOL has obligated almost \$600 million to organizations globally to prevent and withdraw children from exploitive work.

Of this amount, the department has set aside more than 40 percent, or \$219 million, to combat trafficking in persons for the purpose of labor and commercial sexual exploitation. This year alone, the department provided \$28.4 million to address this problem.

I'd like to offer, Mr. Chairman, just a few examples of our efforts in the OSCE region to eliminate the trafficking of women and children for labor.

In 2003, DOL funded a \$1.5 million regional project through the ILO to work in Albania, Moldova, Romania, and Ukraine. This project assisted in the rescue of almost 3,000 children in those countries.

Children were provided with educational opportunities, skills training, and needed psycho-social intervention.

The project was also successful in advancing legal reforms to protect and assist child victims of trafficking and in establishing child labor monitoring systems to document and refer trafficking victims to social service providers.

We funded a second phase of the project at \$3.5 million in fiscal year '06 to include Bulgaria and Kosovo.

Through the President's \$50 million antitrafficking initiative, we also funded a \$1.25 million project through Catholic Relief Services in Moldova in 2004.

The project targets young at-risk women and seeks to reduce the incidence of trafficking and assist victims through a combination of job development, employment assistance and skills training.

We have found that a root factor contributing to the vulnerability of trafficking victims, poverty, can be tackled by creating economic incentives and employment opportunities that offer legitimate and sustainable forms of income.

We're also pleased to participate in the last two sessions of the OSCE Alliance Against Trafficking in Persons Conference.

Experts from our Wage and Hour Division shared their unique experience carrying out workplace investigations and identifying individuals who have been trafficked into forced labor in the United States.

It's this type of collaboration and information-sharing that will allow us to advance our efforts and make a real difference.

In conclusion, Mr. Chairman, at the Department of Labor we're continuing to focus on several critical areas in the fight against human trafficking: Institutional and legal reforms, capacity-building to implement those reforms and direct assistance to victims and potential victims.

We are proud to be part of the U.S. Government's interagency efforts to combat trafficking, and we would like to commend you and the Commission for holding this hearing today. Many thanks.

Mr. HASTINGS. Thank you very much.

Ambassador Lagon?

**MARK LAGON, DIRECTOR, STATE DEPARTMENT OFFICE TO  
MONITOR AND COMBAT TRAFFICKING IN PERSONS**

Amb. LAGON. Thank you very much.

Chairman Hastings, thank you for your leadership among parliamentarians of the OSCE states, and I'm delighted to be here.

So, Chairman Hastings and members of the Helsinki Commission, thanks for the opportunity to discuss the State Department's efforts to combat human trafficking for forced labor purposes.

And I'm lucky enough by law to chair an interagency group, so I work with our colleagues here on this, and I'm happy to speak to our collective efforts, not just the State Department's.

I'm happy to appear with Deputy Undersecretary of Labor, Charlie Ponticelli and, indeed, to follow her, and Acting Director for ICE, Michael Feinberg. And it's good to be here also with Ms. Biaudet, Roger Plant, and Kevin Bales.

Crucial among the 10 principles guiding relations between OSCE nations is the commitment to respect human rights and fundamental freedoms.

The strength of this commitment is expressed in the combined efforts of the United States and the OSCE states to protect victims from trafficking, which is a violation of basic human dignity and, we all agree, the modern day equivalent to slavery.

As the State Department continues to increase attention on slave labor in addition to the dehumanization of sex trafficking, I appreciate the Commission's hearing this morning on this important aspect of trafficking in persons.

Our 2007 Trafficking in Persons Report sheds new light on the alarming trafficking in people for forced labor purposes. Every day, all over the world, people are coerced into bonded labor, exploited in domestic servitude and enslaved in agricultural work and in factories.

They are victimized by unscrupulous employers who take advantage of vulnerabilities, especially among immigrants and especially among young women and children.

This year in the report, we noted several disturbing global trends which speak directly to the plight of labor trafficking victims. First, is the use of debt as a tool of coercion.

In labor as well as sexual exploitation, illegal or illegitimate debt is increasingly used to keep people in servitude. This debt is employed by traffickers as an instrument of coercion, especially among migrant laborers.

Migrant laborers from developing countries are often legally contracted by labor agencies or respond to ads to perform low-skilled work in developed countries.

For this privilege, they are required to make a steep payment up front for the services of the labor agency arranging the job or a finder's fee that goes straight to the future employer.

What follows is a terrifying set of circumstances in which unfair debt captures the indebted worker. For example, a contract labor agency in Bangladesh advertised work in a garment factory in Jordan.

The ad promised a 3-year contract, \$425 per month, 8-hour workdays, only 6 days a week, paid overtime, free accommodations, free medical care, free food and no advance fees.

Instead, upon arrival, workers who were obliged to pay exorbitant advance fees, had their passports confiscated, were confined to miserable conditions and were prevented from leaving the factory.

Months passed without pay. Food was inadequate. And sick workers were tortured. Because most workers had borrowed money

at inflated rates to get the contracts, they were obliged through debt to stay.

Last year, press reports indicated that in Poland announcements in local newspapers lured workers to Italy for seasonal jobs picking fruit and vegetables. They were promised an hourly wage of up to \$7.50 an hour, only after paying a finder's fee and travel costs.

Once in Italy, the reality proved to be quite different. Nearly 100 Polish workers were forced to live in barracks with no sanitation or running water, fed only bread and water and paid just \$1.25 an hour.

With these meager wages, they were unable to pay the room and board and were pushed into debt. Attempts to resist were met with severe beatings and torture.

Now, debt bondage is criminalized under U.S. law, and it's included as a form of exploitation in the U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, as you spoke of, Mr. Chairman.

As noted in our annual report, major source countries must do a better job protecting their citizens against this exploitation.

They can do so by limiting pre-departure fees to reasonable levels, negotiating formal labor agreements with destination countries to secure their citizens' rights while working abroad.

The destination countries for human trafficking should be active in making foreign workers aware of their rights, assisting workers to exercise those rights and criminally prosecuting traffickers.

A special case I'd like to make note of is private homes, where often times exploitation is not visible. In many countries around the world, homes become prisons of involuntary servitude for domestic workers.

They're cutoff from social contact. They work long hours, 7 days a week for little or no pay, no guarantee of even food or an adequate place to sleep. These workers are particularly difficult to identify because of the lack of witnesses to the human rights abuses involved.

They become trapped when they believe that an attempted escape would result in physical harm to them or their families, and when their employers deceive them into believing escape would result in deportation or incarceration.

Let me give you a case. A young West African woman I'll call Maggie to protect her identity went to the United Kingdom with her employers. She looked after their children every day until late in the evening.

She was paid no wages. Her earnings as a cleaner were confiscated by her employer. And her employers claimed that she owed them for her airfare—again, for the privilege of this job.

But she couldn't just run away. She felt trapped because her employers would not return her passport unless she paid them 4,000 pounds, or \$8,000.

Confiscation of passports, identification and airline tickets is used to gain and exercise control over victims. Without these travel documents, foreign workers are literally trapped, vulnerable to arrest, punishment and deportation.

U.S. Federal law makes it illegal to seize documents in order to force others to work. And foreign governments are encouraged to

criminalize this form of coercion as well. I work on that in the diplomacy that I am engaged in.

As we've seen, trafficking can take many forms and in all cases, whether for sexual exploitation or forced labor, should receive equal attention and stringent punishment by governments.

Since the year 2000, the Trafficking Victims Protection Act, which I worked on as a Senate Foreign Relations Committee staffer with Mr. Smith and Mr. Gedjenson when he was in the Congress—it's been amended—it's amended Federal law to assign equally tough penalties for sexual exploitation and for trafficking for forced labor.

Though many other governments have enacted criminal antitrafficking laws, all too often they're limited to sexual exploitation, and they fail to punish trafficking for forced labor, including recruitment, transferring victims, use of fraudulent employment terms, physical and psychological coercion.

They fail to assign to those elements of forced labor equally tough criminal penalties. Punishments resulting in fines and administrative sanctions by a country's Ministry of Labor which may be sufficient for lesser labor violations aren't sufficiently stringent to deter human trafficking as a serious crime.

As head of the State Department's Office to Monitor and Combat Trafficking in Persons, I've seen firsthand in my travels the impact of forced labor. I've met with victims in shelters. I've met with officials.

I've seen the powerful impact when governments, NGOs and individuals stand up to combat forced labor. No laborer, no migrant, no woman, no man, no child deserves to be shackled by debt, chicanery and intimidation by fellow members of humankind.

At the heart of the U.S. Government's victim-centered approach to ending human trafficking is a commitment to human dignity, a desire to not only rescue people but to restore their dignity.

The OSCE and its coordinator for combating trafficking in human beings, Eva Biaudet, play a key role, and they're to be recognized for their committed effort in the fight against human trafficking.

The OSCE is among a group of international organizations—the OSCE, the U.N. Office on Drugs and Crime, the International Labor Organisation, the International Organization for Migration—who collectively work from Vancouver to Vladivostok to address slave labor.

Thanks again for the opportunity to come here to talk about the global struggle to abolish modern day slavery. Steps to mitigate, regulate and unionize aren't enough. Abolition is the goal, and I appreciate your commitment as part of that effort to work with us in partnership.

Mr. HASTINGS. Thank you very much, Ambassador.

And now we'll hear from Mr. Michael Feinberg from the Department of Homeland Security's Immigration and Customs Enforcement.

Mr. Feinberg, you have the floor.

**MICHAEL E. FEINBERG, ACTING DIRECTOR, OFFICE OF INTERNATIONAL AFFAIRS, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. FEINBERG. Thank you, Mr. Chairman.

Good morning, Chairman Hastings, Congressman McIntyre. As you said, my name is Michael Feinberg. I am the Acting Director of Immigration Customs Enforcement, Office of International Affairs.

It's my privilege to appear before you today to discuss ICE's efforts against human traffickers who exploit men, women, and children in a form of, as my colleagues have said here, modern day slavery.

I would like to thank the Commission for its continued commitment to combating human trafficking, particularly in the OSCE participating States.

Among the Department of Homeland Security's law enforcement agencies, ICE has the most expansive investigative authority and largest number of investigators. We also have more than 300 victim-witness field coordinators, which is more than any other U.S. agency.

Our mission is to target the people, money and materials that support terrorists and other criminal activities. ICE accomplishes this by investigating and enforcing our immigration and customs laws, including laws related to human trafficking and forced labor.

While the focus of today's testimony is on forced labor trafficking, much of what I will say applies to ICE's efforts to fight all forms of trafficking, whether for sex or labor exploitation.

ICE special agents place a priority on rescuing trafficking victims and investigating allegations of trafficking, regardless of whether the victims were made to work against their will or whether they were unlawfully induced into a sexually exploitive situation.

As part of ICE's victim-centered approach to trafficking, we also provide the same access to victim assistance to all trafficking victims.

ICE's aim in all trafficking cases is to systematically disrupt and dismantle the international and domestic operations of human traffickers, identify and seize assets and illicit proceeds, and identify systemic vulnerabilities that may be exploited by criminal elements to undermine immigration and border controls.

ICE has investigative jurisdiction within the United States for all human smuggling and forced child labor cases that have a nexus to the movement of people or goods across the U.S. borders.

U.S. Federal regulations grant both ICE and the Federal Bureau of Investigation the authority to conduct trafficking investigations.

Internationally, ICE does not have the authority to conduct any investigative activities without the consent of the host country. These restrictions vary by country.

Thus, ICE relies heavily on the relationships it is able to form with its foreign law enforcement partners and non-governmental organizations to investigate cases with a nexus to the United States.

The majority of ICE's overseas investigative activities occur in connection with cases that originate within the United States.

ICE builds and maintains strong international relationships through our 50 offices located in 39 countries throughout the world, including 11 OSCE member countries.

We work with host country law enforcement, NGOs and international organizations to better coordinate investigations and to fully identify and pursue criminal enterprises.

Here in the United States we continue to target traffickers. In one ICE-led investigation conducted in collaboration with the FBI and the Internal Revenue Service, we targeted a criminal organization engaged in the smuggling and trafficking of Russian, Czech, Ukrainian women into the United States.

The victims were forced to work as exotic dancers at Detroit area strip clubs in order to pay smuggling and other debts.

The techniques used by the traffickers to control the victims included confiscating their passports and identity documents, imposing social and linguistic isolation, bugging the victims' apartment, rough physical treatment and threats of violence.

Investigative efforts resulted in the rescue of four victims, the imprisonment of two traffickers, the seizure of two weapons, two vehicles, and the restitution to victims totaling over \$2.5 million.

ICE provides victim services through two full-time victim-witness coordinators who are stationed at Headquarters as well as through its 300-plus collateral duty victim-witness coordinators in the field.

ICE also provides victim assistance in the form of immigration relief through Continued Presence, which is a temporary status that permits a trafficking victim to remain legally in the United States during an ongoing investigation or prosecution.

Trafficking victims who receive continued presence are then eligible for employment authorization and other federally funded or administered benefits or services.

In addition to our international investigations, ICE focuses much of its antitrafficking efforts internationally on training and outreach to foreign law enforcement, governments, and non-government organizations.

We also provide a toll-free number or tip line for human trafficking leads. We have developed brochures and a DVD for law enforcement officers and human trafficking indicator cards, which have been translated into five different languages.

And I do have copies here for the Commission if you so like.

Mr. HASTINGS. Thank you so much.

Mr. FEINBERG. ICE also has scheduled a 3-day conference this year that will provide the attaché offices with additional training on forced labor, child sex tourism, and human trafficking.

This training will provide the agents with additional ability to collaborate with other U.S. Government agencies, NGOs and international organizations that address trafficking issues.

Domestically, ICE works closely with Federal, State, and local law enforcement agencies, as well as many non-governmental, community-based and faith-based organizations to assist victims of trafficking.

In addition, ICE, the Department of Health and Human Services and the Department of Justice have launched antitrafficking initiatives and task forces in more than 40 cities across the United

States which bring together State, local, and Federal law enforcement to attack these criminal organizations.

In conclusion, ICE has the unique ability to use its global reach to investigate trafficking in persons and to provide short-term immigration relief to trafficking victims.

We will also continue to expand our outreach and training efforts by sharing our expertise and employing a victim-sided approach to combating human trafficking.

I hope my remarks today have been helpful and informative. I would like to take this opportunity to thank the Commission for its support of ICE and our law enforcement mission.

I'll be glad to answer any questions.

Mr. Chairman, ICE is getting ready to roll out a new public service announcement to the community to help us identify victims who have been trafficked.

This has not been officially rolled out, but we'd like to present it also to the Commission.

Mr. HASTINGS. All right. I certainly thank you in that regard, and hopefully we will have a few for distribution among our audience participants. It's deeply appreciated.

Let me ask Congressman McIntyre if he would like to ask a question or two. And then I'm going to try something a little different, if you all don't mind.

Proceed, sir.

Mr. MCINTYRE. Thank you, Mr. Chairman, since I'm going to be departing shortly.

Mr. Feinberg, if you would just clarify for us exactly how you decide who is the lead agency between the FBI and ICE on trafficking investigations. I know there's some overlap.

Do you have to deal with turf war issues, or who makes the decision as to which is going to be the lead agency?

Mr. FEINBERG. Mr. McIntyre, in the trafficking cases we really have a collaborative effort with the FBI.

There's a Human Smuggling Trafficking Center located in the State Department that the FBI, ICE, the State Department, intelligence communities are all a part of. And that is set up to be a deconfliction center to help deconflict on cases.

And then as I mentioned in my opening statement, we have over 40 of these human smuggling task forces throughout the country. The task force collaborates on the case, and then the case is moved forward.

This is too severe of an issue to have turf battles. And we have worked out with the FBI in this particular case we're not going to have turf battles. So it's working very well in the Human Smuggling Trafficking Center as well as these task forces.

Mr. MCINTYRE. All right. Thank you, sir.

And would you say whether or not—there have been some reports as to whether victims in the United States are undercounted.

I know there have been some reports that as many as perhaps 62,000 victims have not been included in some of the official government reports. Can you address that?

Mr. FEINBERG. Well, I can address from our perspective, sir. Through our victim-witness coordinators and through our inves-



tigations, we have a certain amount of cases that we work, and so those are what we know.

And through our outreach, we're trying to get the message out more to see exactly what we have out there. So our victim-witness coordinators I think last year did 200-plus interventions or interviews with victims and witnesses of trafficking cases.

So that's what we know. Through our aggressive outreach, through trying to promote the program more, we're trying to learn how much is out there.

We really don't have an answer to the article. I'll maybe leave that to my other colleagues.

Mr. HASTINGS. Mr. Lagon?

Mr. MCINTYRE. If I could followup.

Mr. HASTINGS. Go ahead.

Amb. LAGON. Yes, sir. This is a very good question. Of course, it's an inherently difficult thing to find victims of human trafficking.

Why? Victims don't tend to identify themselves because they're afraid. They're afraid of being treated as criminals. They're afraid of being treated as illegal aliens.

It's actually one of the great innovations of the Trafficking Victims Protection Act, is to have a visa status for the migrants, so that you determine someone's a victim.

And it doesn't matter precisely the circumstances that they came into the country. The most important thing is they should be protected and can stay in the United States.

I think there are many more, as—I was reported in that Washington Post story as saying that there are many more victims out there than we have found.

But I've taken part myself in the roll-out that the Department of Health and Human Services has done in communities to try and raise the awareness of non-government organizations, medical care providers and so on, to look beneath the surface and try and find those people who, you know, might look like a migrant worker but, in fact, you know, are confined in the workplace, those people who don't move around unless a company—or those people who don't seem to know where they are, or are completely debilitated by lack of language.

And that effort to reach out should buildup numbers over time. I am modest when I go to other nations, including those of the OSCE, and say, "Your government should work better on victim identification protocols," because I share our experience over the last 7 years in the passage of our own comprehensive legislation on trafficking.

Mr. MCINTYRE. If I may followup, Mr. Chairman.

Mr. HASTINGS. Sure.

Mr. MCINTYRE. I know my time may be short here.

Mr. HASTINGS. That's OK.

Mr. MCINTYRE. How do you distinguish between trafficking and alien smuggling?

Amb. LAGON. It's quite different. I mean, under U.S. law and under the U.N. protocol, trafficking in persons includes several qualities, one of which may be crossing an international border.

But despite the word trafficking connoting movement, in fact, under U.S. law and the U.N. protocol it's the extreme exploitation and the control over the person that's the defining quality.

Alien smuggling is moving people across the border. And those people who do cross the border as victims of human trafficking—sometimes it's voluntarily, but they think the job is going to be different from what they get.

Sometimes it's not, but indeed, sometimes the circumstances are such that someone is so defrauded and so coerced that they become a victim of trafficking, and it's an enlightened policy of the United States that they should be given a visa status to protect them, and then maybe they can become a valuable witness in the prosecution.

Mr. MCINTYRE. All right. Well, then one quick followup question on that. Do the migration restrictions and increased border security put would-be migrants at risk for trafficking?

Amb. LAGON. I don't think so. I mean, I think a policy that combines more serious border security with, as the President imagines, a guest worker program is exactly the humane kind of program that we should pursue.

I don't think there's a likely increase of victimization. It's all part of a bigger picture in which we need to realize that migrants are people, too.

The human trafficking story is one in which we find women, people in prostitution, migrant workers who, in country after country, are not being treated like real human beings.

We need to look out for the rights of those.

Mr. MCINTYRE. Thank you.

Thank you, Mr. Chairman.

Mr. HASTINGS. Thank you very much, Congressman McIntyre. It's deeply appreciated.

Mr. Lagon, Ms. Ponticelli, and Mr. Feinberg, I have several questions, and some of them I would like to submit to you in writing and, in keeping with the practice that I have, ask you in followup if you would, your time permitting, answer those questions, and then we can place them on our Web site and allow that the public be informed in an increased and enhanced manner.

I've been trying to get away—thanks, Mike. I appreciate you being here with us.

I've been trying to come up with different formats to make these hearings have more life, and I consider me sitting up here and you out there and the audience—and where I've been reaching out is in the participants.

In the audience, regrettably, what winds up happening for 2 hours is they sit there, and many persons in this room are experts in this field, and never have an opportunity to express an idea or to say anything.

Now, typical of Congress and its glacial manner in which it changes anything, folks don't want to do anything different, so I attempt to do some different things.

And with your permission, what I would like is rather than me asking questions—and I'd ask staff if they would pass out to those who may have an interest—we have a questionnaire, and if you could write legibly.

Even if we don't have your question asked and answered here today, I can send it along to our witnesses, and we can then, in turn, try to get a followup answer.

Additionally, many times—and I don't know what your time constraints are, and I certainly respect them. If either or all of you have to leave, I readily understand.

But if you can stay, it would be appreciated. And let me invite you, this panel, to come to this table. And I'm sure that these other experts, some of whom you all don't interface with on a regular basis—you would be interested in what they have to say.

So if you all could come up here, and if my next panel could take their place.

So, Ambassador Lagon, over here.

Ms. Ponticelli—I appreciate it.

I think we'll probably—and then maybe we can just have some dialogue without me playing big-time Congressman.

Yes, right there, please, sir. Thank you. I appreciate it.

Ms. Ponticelli, if you have—if anybody has to go, and at any time if you have to leave, I understand.

Thanks a lot. OK. I think you'll find it a little interesting, because a lot of times the first panel has to leave and don't know what the second panel has to say. So now I feel better. I have more people up here with me.

Now we are privileged to have with us—and grateful for their participation—Ms. Eva Biaudet, the OSCE's Special Representative and Coordinator for Combating Trafficking in Human Beings; Mr. Roger Plant of the International Labor Organisation; and Mr. Kevin Bales of Free the Slaves.

And, gentlemen, if you don't mind, we'll begin with Ms. Biaudet.

**EVA BIAUDET, SPECIAL REPRESENTATIVE AND COORDINATOR FOR COMBATING TRAFFICKING IN HUMAN BEINGS, ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE**

Ms. BIAUDET. Thank you, Chairman Hastings. I'm also very happy to be here with you today, and I'm very happy to be in this distinguished company and with honorable experts from the United States.

I think it is clear, given the existence of all multilateral instruments, there can be no confusion among states that trafficking for forced labor has to be addressed as an issue of priority.

The U.N. Palermo Protocol has provided the catalyst and guiding framework for the development of antitrafficking legislation and supporting mechanism that we also advocate for, for many OSCE participating States.

The OSCE has worked with a number of states to conform their legislation, to comply with the Palermo Protocol. The Palermo Protocol is supplemented further by the OSCE action plan, as you already mentioned earlier, but also of the Council of Europe Convention and the E.U. Action Plan.

Our main challenge is actually to get countries to enact at least these minimum standards and instruments. Unfortunately, as has been said already a few times today, not all countries have

criminalized labor trafficking and still define trafficking as for the purpose of sexual exploitation.

And even when legislation is adopted it does not always apply to cases of internal labor trafficking. The result of this, of course, is that potential front-line responders will not identify these cases and traffickers go unpunished and, of course, victims unprotected.

Another challenge is to examine how provisions operate in practice when viewed through a victim-centered lens. One example is the length of reflection/recovery period. The appropriate length is not an arbitrary number of months, as has been shown in recent research.

Another example is the common practice of conditioning a victim's receiving assistance on testifying at trial against the traffickers, or at least assisting in the investigation.

Such procedures are problematic. For government and law enforcement officials to require this of recently trafficked victims removed from a highly abusive environment should be questioned as inherently objectionable.

From an international perspective, when looking at how political will to fight trafficking has been generated in the OSCE region, U.S. efforts, of course, have been strong.

U.S. antitrafficking efforts reflect a broad interagency approach, which is a very good thing. Also, the TIP report, I believe, has been and still is of importance.

However, we should not underestimate that the driving force for antitrafficking activity among OSCE participating States, such as passing legislation, has probably been a result of obligations voluntarily embraced by countries, for example, in connection with the U.N. Palermo Protocol and, more recently, the Council of Europe Convention, not, of course, to forget the prospect of future E.U. membership.

So far, few antitrafficking projects in the OSCE have addressed labor trafficking directly. Research confirms that available assistance is geared toward a very stereotyped trafficking victim a young, poor, uneducated woman trafficked for sexual exploitation for long periods of time, having been exploited and exposed to extensive and perhaps myriad forms of abuse.

At the same time, other forms of trafficking are being noted and other profiles of victims are being identified. But assistance frameworks, the real work on the ground, has not been set up to respond to other kinds of victims, trafficked for any other kind of abuse.

Given the lack also of systematic anti-labor trafficking activity and data collection, it is so far impossible to comment on the issue of overall effectiveness of efforts to reduce labor trafficking.

Further, on the project level, a meaningful analysis of effectiveness is hindered because programs—regardless, actually, of the nature of the trafficking project—almost never include independent components by independent expert evaluators.

Honorable Chair, so far neither the United States nor other states have elevated the risk of being prosecuted for labor trafficking to a level that is even close to serve as a deterrent.

A concerted effort to identify labor trafficking cases is needed but will, of course, not alone ensure success. As we know, a primary

criticism that has been raised regarding U.S. efforts is the discrepancy between the level of identified cases and the official estimate.

The reasons for this have not been clearly ascertained. However, it is probably a combination of underestimating the difficulty of identifying the victims and at least some identification methods utilized that are not properly targeted.

With victims, of course, for labor exploitation we also face the issue of lack of self-identification. It seems a desperate situation and a sense of hopelessness gives few alternatives but to accept so-called contracts more or less with knowledge of their exploitative character.

OSCE-supported research show that states need to focus much better on a victim-centered approach. Still victims are requested to become involved in criminal proceedings too early, without proper time to reflect on the consequences.

Still victims tend to be treated as violators of immigration law rather than as victims of trafficking. Still temporary residence permits are not available or are only conditional on cooperation in legal proceedings. And still protective measures are not available or they are insufficient.

We have to start creating environments which do not foster or make it easy to abuse powers against people in vulnerable situations. It means not giving up on the idea that our region is a region for respecting human rights and human dignity.

It means not giving up on our social conscience. And it means an openness to search for solutions on migration, border control and employment that are not abusive to these principles.

We need also to recognize that labor exploitation is linked to employment issues in general. Special attention has to be given to improve the general working conditions in sectors where we know exploitation occurs.

The increased use of subcontractors, for instance, is a problem because it brings more anonymous employers and employees and less transparency to de facto working conditions.

We need provisions addressing corporate and contractor accountability for the complicity of subcontractors.

Also policies such as linking visas or work permits to a single employer, including the employer having the sole responsibility for extensions and renewals and a worker not having a possibility to change employers easily leads to situations where the worker either stays with an abusive employer or is likely to face deportation.

Most U.S. antitrafficking projects are categorized by the State Department as dealing both with sex and labor trafficking.

The numbers from the 2006 TIP report also show substantial increase in TIP-related convictions in countries enacting legislation as well as thousands of victims receiving services.

Nevertheless, this information is of limited value in aiding our understanding of the adequacy and effectiveness of resources utilized against labor trafficking since it is not disaggregated by form of trafficking.

Also the ultimate yardstick should, I would say, be the impact in reducing labor trafficking. Since there is no evidence or sign yet of diminished labor trafficking, it is not possible to make a finding about the adequacy or effectiveness of current funding.

A second key point is that no reasonable assessment is possible of whether or not adequate funding has been dedicated to any particular antitrafficking effort because there is so little independent evaluation about what has been done and the connection between activities funded and the results.

Also, the U.S. General Accountability Office has pointed out some of these challenges and has requested U.S. Government agencies to strengthen evaluation of projects and their impact.

In addition, a recent USAID-sponsored study found that very little useful data is collected and few concrete facts are known to inform policymakers about the relationship of root causes and contributing factors to human trafficking.

Hence, we will not be able to fight effectively against labor trafficking unless we start fully to use action-based research and analysis that helps transform policy into practice regarding the specific issues presented by labor trafficking.

And finally, there is much work that still needs to be done regarding child trafficking both for labor and sex trafficking. Approximately half of all human beings exploited for labor purposes are children.

The awful truth is that there is a high demand for exploitation of children both for sex, labor, and illegal activities, also in the OSCE region, primarily, of course, because children are cheap and obedient.

We need to take a look at how to invest in responses to child trafficking in more effective ways. Children need special protection.

And to enable earlier intervention, much earlier than the destination exploitation takes place, it is necessary to have more accurate information on the patterns of child trafficking.

Distinguished Commission, in conclusion, current efforts against trafficking for labor exploitation still seem to be in their infancy.

It is apparent that all of the challenges that exist in responding effectively to sex trafficking—they also exist with developing responses to labor trafficking.

Prevention, training awareness, assistance, and criminal justice responses tailored to the different requirements of labor trafficking are all needed.

Unfortunately, it can, however, be anticipated that the challenges that have been faced in creating these responses for sex trafficking may be increased in the context of labor trafficking, as it may not garner committed political will without more effort, and it may become embroiled in confusion with issues involving economic migration.

For overcoming this, political leadership and political will to find new solutions, to address vulnerabilities and decrease demand is very much needed.

Concerning the important question about adequacy of resources dedicated to identify victims of labor trafficking compared to those of sex trafficking, I want to stress here that even if it's clear that too few resources are allocated fighting trafficking for labor purposes, I cannot advocate to solve this by any shift of resources between different forms of trafficking in persons.

Better identification of victims still is the main challenge. This is true for labor trafficking but also for sex trafficking and trafficking in children.

Finally, I want to thank the Commission for holding this important hearing and I kindly request to submit my full written statement into the hearing record.

I also have some added material. We have had two labor conferences on labor trafficking the last 2 years which have gathered hundreds of experts, from international organizations, with a report on conclusions and recommendations on efforts that could be done.

And also a few agendas on more recent conferences just for you to see the practical way we've tried to work together. Thank you.

Mr. HASTINGS. Thank you very much, Ms. Biaudet.

Mr. Plant, you have the floor.

**ROGER PLANT, HEAD, SPECIAL ACTION PROGRAMME TO COMBAT FORCED LABOUR, INTERNATIONAL LABOR ORGANISATION**

Mr. PLANT. Mr. Chairman, thank you very much for the possibility to testify at this hearing. It's a great honor and a pleasure for us.

I'd also like to thank the members of the administration for their support to the ILO and its activities.

When you are the fifth of six speakers at a hearing like this, a lot has already been said. I think we know a lot about the basic facts and the challenges before us.

You, Mr. Chair, have talked about a number of 12.3 million victims of forced labor, of which 2.4 are victims of trafficking. We know also there are 360,000 cases of forced labor in the industrialized countries, including many of the OSCE countries, of which 270,000 are victims of trafficking.

And this tells us that trafficking for forced labor as well as sexual exploitation is a global problem. It's a challenge for every kind of economy. We all of us have things to do as either sender or destination countries.

Trafficking in forced labor are violations of not only fundamental human rights but fundamental labor rights.

And to address these effectively, prosecution, victim identification or prevention and the rehabilitation of victims must be addressed with full attention to the core labor standards: Fighting discrimination, fighting child labor, fighting forced labor, and promoting freedom of association.

Of course, it is essential that the vulnerable migrants who are the main victims of forced labor and trafficking do have the right to organize and that trade unions in both sender and receiving countries organize them in defense of their rights.

The ILO has a particular mandate, role, and responsibility on the forced labor dimensions of human trafficking. In the 6-years since I've been heading the ILO's special action programme, we've accepted this responsibility when very little was known 6 years ago.

When there was only anecdotal information about exploitation in construction, garments, textiles, and it was only anecdotes, only a

few journalistic statements, we began to promote very detailed and systematic research on this issue.

And I'm glad to say that we've now produced very well received reports in a range of countries—in Russia, in Germany, in France.

And just last week, the Government of Portugal, during its E.U. presidency, had a major conference on trafficking and released the report we conducted with them on forced labor and trafficking in Portugal.

So I would say that the information base is there. We're beginning to know what we're talking about. I don't think anybody's in denial mode now that trafficking is as serious a problem for labor as well as sexual exploitation.

I would commend very heartily Ambassador Lagon. I commend his office for the June 2007 antitrafficking report. I think it's an absolutely outstanding report. We're very glad to have contributed to this.

And I think it really sets out all the forms of coercion and exactly why these challenges are before us.

I'd also like to commend the OSCE. I had the honor to be invited to address the 2005 and 2006 meetings where we really did place trafficking for forced labor high on the agenda of the OSCE countries.

So this is where we stand. But where do we go? And that's what I would like to set out for you in the few minutes I've got available today.

I've got a written statement. It's set things out in much more detail. But I'm just going to mention five things or six things that the ILO is doing and why I think these are very important and why I think they need to be built on more.

First, we have heard about the vital importance of surveys and data collection. This is not easy. It's incredibly difficult to capture these issues which are so hidden.

So what we're doing now in a number of countries, after our global estimate, we are helping OSCE and other countries develop national estimates of forced labor, which has never happened before.

And we're doing it in Georgia, in Ukraine, in Moldova, just to give three examples—we're also doing it outside the OSCE region—by helping departments of statistics, bureaus of statistics to have the relevant questions on forced labor and trafficking and labor market surveys and migration surveys and others.

It may not be completely accurate, but, my goodness, it's going to help, because unless we take this much more seriously, unless we really help governments to try and capture what is a totally hidden thing, we're never going to have a good idea of the problems, and we're never going to place this on the radar screens of the governments in countries where these problems occur.

Second, we're beginning to hear a lot about national action plans. You need very good legislation, and after that you need the policy mechanisms, the coordination mechanisms and the action plans.

So we're working particularly in the framework of the European Union-supported projects in countries like Ukraine, Moldova, Azerbaijan, Armenia, Georgia, and others.

We're actually helping to make sure that labor partners are involved in the design and formulation of action plans and that



they're very heavily involved in the implementation of these action plans.

Just one example. Ukraine, the national action plan is excellent. But how do you implement it? We have a project which is addressing five regions of Western Ukraine from where irregular migration occurs mainly to the European countries.

And we're helping a whole range of labor partners, including employment, job placement agencies, labor inspection, and others, to actually implement the labor aspects of this plan, and we feel this is certainly going to help with prosecution as well as prevention.

But the resources are limited. Here's one example. We can't touch the Eastern Ukraine where there are massive problems affecting trafficked Ukrainian workers going through to the Russian Federation. We've documented this very carefully. So this is a pilot on which one needs to build.

Third, you must bring together—you must combine the efforts of labor inspection and criminal law enforcement. This is absolutely essential, both because labor inspectors are often the first people to be able to catch the problems which have to be prosecuted later by the police, the prosecutors and the criminal law enforcement, but they have to understand what they're talking about.

So we have come up with a number of manuals, like we have one manual here. It's called "Trafficking for Forced Labor: How to Monitor the Recruitment of Migrant Workers." I'm delighted to say that this has been very well picked up.

Just last year, the Czech Ministry of Interior asked for permission to publish a Czech version. There are now versions in Polish, Ukrainian, Romanian, and other languages.

So this has really helped—helping these people to—how do you capture these forced labor situations in practice? It's one thing to have a general law, but you need very, very detailed guidance for your labor inspectors and your law enforcement.

We had a very innovative E.U.-supported project between 2004 and 2006 which brought sender and destination countries of Europe together. This has created the groundwork for future cooperation.

And next month, we will have a meeting of chief labor inspectors to validate a training manual. So I'm glad we're moving forward.

A fourth thing is judges. Judges are absolutely essential. We've heard there are practically no prosecutions. We've heard there are practically no convictions.

But it's very difficult for judges in either common or civil law system to understand the precedent. When you've got a new law, how do you apply it? How do you relate it to other laws, peonage, involuntary servitude, et cetera?

So we are preparing a rather detailed book of case law which will be validated later this year, and this, I believe, is really going to help move forward on getting the judges more extensively involved.

And the final point—I could go on much longer, but you're going to have to read it in the written statement—I think we've begun to hear of the importance of involving trade unions and business organizations.

They both have an absolutely essential role to play—trade unions in monitoring conditions, in organizing workers, in making sure

that you cut out the debt bondage that Ambassador Lagon talked about and ensure that the remittances are channeled back to countries of origin; and of course, employers, business actors, in preventing the emergence of forced labor in their company supply chains and a host of other things.

So I'm glad to say that we have been working extensively with employers' organizations. An example is the Russian construction industry where, together with the European Bank of Reconstruction and Development, we have now held a survey, had a number of meetings, and will hopefully soon be completing a self-regulation handbook.

More generally, we are promoting a business alliance against forced labor and trafficking. We've put forward 10 principles for business leaders.

We have been working very closely with the International Trade Union Confederation at the global level on promoting a workers alliance against forced labor and trafficking.

But we've had some very successful experiences at the country level, first, working with trade unions between the Central Asian countries and Russia, helping to organize the migrant workers, helping them channel remittances back to communities of origin.

We've just started a similar exercise in Kazakhstan with the first pilot projects under way. And I think this is going to be a very important way forward.

One must have multistakeholder initiatives involving government and all government agencies together with the business partners and the worker partners.

And I think this is where the ILO has a tremendous value added, a tremendous contribution to make, as a tripartite organization with these networks across the globe, not only in the OSCE countries.

So in conclusion, Mr. Chair, I'd like to thank you once again. I'd like to say that I have had the opportunity myself to address meetings organized by the Department of Justice, Department of State, and Department of Labor, as well as this Congress.

And I've been able to appreciate over the last 2 years how much more commitment there is, every day more commitment, from this government as well as from the OSCE.

So we hope we can continue to cooperate with you. We just had a large mission last month discussing how we can cooperate more with regard to the protection and promotion of international core labor standards.

And this is part of our Decent Work Agenda. And I would say that forced labor is the absolute antithesis of the Decent Work Agenda for which the ILO stands.

And while we're not easily going to get consensus, as Eva Biaudet said, over some difficult aspects of migration policy here and everywhere in the OSCE region, nobody—nobody—is going to tolerate forced labor, slavery and human trafficking.

So this is where we really can move forward through very concrete and practical action along the lines I've been mentioning. Thank you very much, indeed.

Mr. HASTINGS. Thank you very much for your stimulating comments and intervention, and your full statement, of course, will be made a part of the record.

As we prepare to hear from Dr. Bales, if anyone has any question and you would pass it to the lady in pink over there, then we, after Dr. Bales, will go to some questions.

And also, I don't know whether members of the press are here, but I have instituted a policy of at least allowing a couple of members of the press to state a question.

As to whether or not those who are our witnesses are interested in answering, that's a different subject. But at least it can stimulate added discussion.

Dr. Bales, you have the floor.

#### **KEVIN BALES, PRESIDENT, FREE THE SLAVES**

Mr. BALES. Thank you so much, Mr. Hastings. It's a great honor to be here before the Commission. I appreciate so much that we're the only NGO that's been asked to speak.

I want to explain briefly—I saw some puzzled looks—that our organization, Free the Slaves, is, in fact, the American extension and sister organization of Anti-Slavery International in Britain, and that we are, in fact, the organization that formed in 1787 to initiate the very first antislavery campaign and human rights organization on earth.

We continue that work today. We haven't ceased in those more than 200 years.

I appreciate what Roger was saying about being the fifth of six speakers. But when you're the sixth of six speakers you are, in fact, more like the person who sweeps up after the parade of great luminaries wrought down the thoroughfare.

But I'm going to use that fact that I get to be the sweeper to not spend so much time on recommendations that we would bring forward that would very much repeat those of the previous speakers.

And I want to also follow your lead, Mr. Hastings, and be a little bit more provocative in terms of some of my comments, because I think there's a great coherence and agreement about the kinds of recommendations. I have a few I want to highlight.

I want to also, from my sweeper position, note that Ambassador Lagon highlighted the tricking of debt, the trickery in debt, in overseas worker exploitation and finder's fee and danger.

And I just want to highlight that for the past 2 years our organization has been pressing for compensation for families of exactly such victims who had, in fact, been killed in one such example of that trickery and exploitation.

The shocking fact that underlies this is that, in fact, their exploitation and death occurred when they were recruited from Nepal to work within the U.S. Green Zone for American contractors in Iraq. This has been brought forward several times and it's been mentioned in the TIP report and so forth.

But there remain families in Nepal who contracted large debts to pay those finder fees. The men of the families were killed by a roadside bomb in an attack in Iraq, when they were told that they were, in fact, going to be working in a different country, and so forth.

It's particularly shocking, I think, for all of us who are American citizens to find that it's been flowing into our own efforts to bring democracy and freedom to a country and then, in fact, we somehow facilitated the enslavement of workers in that country.

I want to touch a tiny bit on the definitions—earlier there was a question about smuggling and trafficking—and say that I think we should be very clear that human trafficking really is simply the movement of a person into a situation of enslavement.

The definition of human trafficking rests upon what happens to someone when their journey, whether it's internal or across a border—when that journey ends and forced labor begins.

If the forced labor of whatever sort is not the end result, then it's not called trafficking. It could be called migration. It could be called smuggling, or so forth.

And again, as Ambassador Lagon highlighted, the emphasis on one type of trafficking, that for sexual exploitation, in the laws of several countries I believe requires a very invidious comparison that says one kind of enslavement may be more serious than another type of enslavement.

And I just want to be a little provocative and say to my mind that's as illogical as saying that one type of murder leaves the victim more dead than another type of murder. Slavery is slavery.

And I want to go on to reinforce that idea by saying that it's been in my work for 15 years now that when we try to meet our desire to divide the crime of enslavement into categories and trafficking into categories, I just want to say that I've met and spoken to at length, and even become close friends and colleagues, with men and women and children who have been enslaved.

And I want to tell you that not one of those people—not one who has lived the experience of enslavement—has ever claimed that their slavery was worse than that of another person or deserved some sort of special emphasis.

Across their different cultures and continents and ages and religions and experiences, ex-slaves recognize in each other the pain and the violation of their shared experience.

They don't attempt to draw tidy lines of demarcation, and not least because virtually all slaves and ex-slaves know this fact, that whatever type of forced work they face, if they are women and girls, it will include sexual exploitation as well.

Now, to think a moment about the estimations, because of the very hidden nature of trafficking crimes, I think it's important to remember that no country, not one, knows the actual distribution between the different types of criminal exploitation for forced labor.

In a study that we conducted with the Human Rights Center at the University of California, Berkeley—and it was, in part, supported by the ILO—we made estimates for the distribution in the United States.

We found that exploitation for sexual purposes made up about just over 46 percent of the cases in the United States, domestic service enslavement accounted for 27 percent, and agriculture just over 10 percent.

Now, I mention this just because I think these figures might be indicative of the distributions or proportions for other developed economies, not for the economies of the developing world.

It's important, I believe, to remember that trafficking for forced labor is very difficult to see for many reasons, but I want to highlight two.

First, it can be spread very thinly through the economy. For example, in developed economies, in addition to the prostitution, domestic service and agriculture I mentioned, I want to point out that in our own work we have found enslavement, forced labor, in restaurants, old folks homes, hair braiding and hair salons, nail salons, in a factory making cannolis, in a mental institution, in plant nurseries, and in forestry.

A troop of Chinese acrobats has been enslaved. A boy's choir from Zambia has been enslaved. Slaves beg on the street—have begged on the street in the United States. They've sold ice cream from trucks in the Midwest. And like me, they sweep up after everyone else has gone.

I think we have to remember that criminals can be very clever. They're often pushed much harder toward innovation than the rest of us, since failure in a criminal business can mean prison or death and success can mean huge profits.

The fact is that slavery can be used—forced labor can be used in almost any job. And if the door is left open through inadequate enforcement or inspection or ignorance of its warning signs, criminals will find that niche and exploit trafficked people in it.

Now, one of the things that I think could help us to see that forced labor around us in different forms of—to see that forced labor are some of the factors that we have learned support trafficking into forced labor.

And our sister organization, Anti-Slavery International, carried out research for trafficking into forced labor in the European countries of United Kingdom, Ireland, the Czech Republic, and Portugal.

And that full report has been sent along to be picked up by anyone who wants it.

In that research, we identified four main factors. And I believe these factors are important because they give you the points of intervention at which you might intercede to prevent forced labor or to find those points of identifying forced laborers.

The most important common factor across those countries—rather, a set of factors—are those of isolation, lack of knowledge, of rights, and multiple dependency of migrant workers.

In general, migrant workers lack knowledge of their rights. They feel responsible because they feel that they've made a wrong choice. They're not aware of the options that they have under national or international law.

And those that have been selected by dishonest employment agencies, because of their lack of knowledge of local languages, they are very much discouraged from learning it, so they're kept in a situation of isolation.

And a special concern there is the exploitation of domestic work, a very serious problem in the United States, because it occurs in a private sphere behind closed doors, making intervention and discovery from the outside very difficult.

The second factor that we found has a very important impact on those who are caught up in forced labor is the restrictive nature

and complexity of labor and immigration regulations in destination countries.

Now, I have a recommendation that I'll come to in a moment that addresses this in particular. But these restrictive migration regulations force more people to look for alternative ways to carry out their migration, using the services of these agents and intermediaries that we talked about before.

And I think it's very important to remember that most of these economic migrants are, in fact, doing exactly what we would do in their same situation, that if they have hungry children, if they have situations where they lack a chance to have education, if, like many of our ancestors, they sought opportunity and went to a new place, and at times that process leads to their exploitation.

The third most important factor we discovered were the threats of violence, and I won't say more about that, because we understand that violence is used to control people, to enforce their—and to force their exploitation.

And of course, it includes the debt, the withholding of documentation and pay, to create a kind of multiple level of dependency.

And then the fourth is, in fact—the fourth factor is, in fact, more structural, and it is that increasing demand for cheap labor. This is in many of the industries and service sectors across the European Union and North America.

Even in cases where employers pay a legal minimum wage, the increasingly widespread practice of subcontracting creates opportunities for agents to withhold the earnings and take control over the lives of migrant workers.

And if you combine that with the urgent need of many countries outside the OECD area to search for a better life, it simply means often to provide additional income for the basic needs of their families. It provides the circumstances in which people take risks in their migration strategies.

Now, I want to move on to a few recommendations, and Ms. Biaudet has highlighted the question of adequacy of enforcement.

And I want to offer—I guess it might be termed a factoid, a small fact, that I believe very strongly illustrates this, from the experience of the United States.

And it's about the fundamental nature of the level of resources that are brought to bear on this crime. Let's recall for a moment that, in fact, the State Department has estimated that 14,500 to 17,500 people are trafficked into the United States each year.

In other words, something like—and let me use the number 17,000 for a reason that will become clear in a moment—something like 17,000 people are, in fact, newly enslaved in the United States each year.

Now, it's an interesting criminological, statistical coincidence that, in fact, the murder rate in the United States is almost exactly 17,000 per year.

Now, the reason I put those two next to each other is because in the 18,600 police departments in the United States, there is not one police department without a homicide unit, a homicide detective, a specially trained homicide officer.

In the 18,600 police departments in the United States, to the best of our estimation and reckoning, and we've been looking, we have found three officers trained and ready and who, when they get up in the morning, their only job is to work against slavery and trafficking.

Now, I'm going to reiterate that slightly to say 17,000 murders, 17,000 people newly enslaved in the country each year, and—through trafficking, and reminding you that trafficking is, in fact, a bundle of very serious crimes, not a single crime.

It includes assault, kidnapping, indentured servitude, forced labor, very often sexual assault, very often rape, as well as a number of crimes like document fraud and economic fraud and so forth—a very serious bundle of very serious crimes, and yet we are enforcing it at a level which is less than  $\frac{1}{10}$  of 1 percent of the allocations of resources that we would bring to the question of homicide.

It was very difficult to determine how much is actually spent on homicide in this country. I wanted to find that number for comparison purposes. The closest that I could find was something over \$2 billion, but it was unclear to me what it was.

If we look at all the U.S. Government expenditure on antitrafficking and antislavery work, it comes to something over \$200 million. So there's a very significant discrepancy in this resource allocation.

And while a number of our recommendations—and the recommendations that have gone before I think are very sound. Without the adequate resourcing, they're not going to reach out to the size of this problem.

The second and, let me say, the end of the recommendations that I want to offer will actually come from a slightly odd direction.

In 2002 and 2003, I was asked by the United Nations Office of Drugs and Crime to prepare for the Global Program on Trafficking in Persons an action plan for the countries of the economic communities of West African states.

In other words, the ECOWAS countries, the Economic Community of West African States, knew that they had a situation in which trafficking was going on between those countries, and they were hoping to bring together all of the, first, Secretaries of Justice and so forth and then, finally, the Prime Ministers and Presidents to agree a plan of action that would cover all those states.

Now, the reason I point this out is that the OECD countries have been working very carefully and cooperating, but they haven't necessarily come together and said, "We are going to set forward an entire raft of legislation which would bring our laws into a kind of harmony that recognizes that, in fact, this international crime is an international crime and that we must have laws which continue across borders with a certain coherence and harmony. Otherwise, criminals will take advantage of that difference, that arbitrage, between one side of a border and the other."

I point to that, and I explain a number of those provisions adopted by the ECOWAS countries in 2003 in the written section. And I won't go into any detail here.

But it was primarily about bringing those ministries of justice and so forth together to say how can we make our immigration

laws, simply in terms of, for example, the issuing of passports, the issuing of documents that we can all recognize, not unlike what has been happening in the European Union, how—to make sure that those are—or make our antitrafficking work at the border more effective.

How can they make sure that the crime that's punished with a severe penalty on one side of a border is not, in fact, treated as a misdemeanor or, in fact, completely defined in a different way on the other side of a border?

It's a fundamental approach to a global problem with a global solution. And I think it's one that, in this case, the Economic Community of West African States has stolen a march on the countries of Western Europe and North America and can point to a way in which those laws and enforcement practices can be brought into coherence.

I very much appreciate your time. I guess I wasn't too provocative. I didn't hear anyone gasp or anything. But we very much appreciate the chance to speak. Thank you so much.

Mr. HASTINGS. Thank you all so very much.

I'm beholden to the persons who helped us to put this together, and I want to mention by name the staffer from the Helsinki Commission that all of you worked with, Ms. Winsome Packer.

And she had able assistance, and I thank her personally, of Clair Rioboando Sieelkey from the Congressional Research Service, which most countries don't have the luxury of having such a tremendous resource as the United States does with the CRS.

I wanted to share with all of you, as I listened to you, that—I think, Mr. Plant, you highlighted what I feel is something that needs to be addressed, and that is that—and all of you in some way approached it—that this is really a global situation, and it's interfaced, as all of you put it, with bundled crimes, so to speak, that register.

But before we do our finger pointing—and we're very good at that in the United States, finger pointing all over the world.

But before we get into that finger pointing, if we were to spend substantial time analyzing how we got to where we are, we would recognize, among other things, that different forms or perhaps as we—not as much sexual exploitation, but in migrant labor, different forms of exploitation have taken place in this country.

And while we have had good laws that have assisted in overcoming it, the simple fact of the matter is that we've had our share of participation in the kinds of things that you discuss, particularly in the labor area.

Lest I go forward to say that during the Second World War, I worked in a DDT factory in Jersey City putting labels on bottles at 9 years old.

And I hear now about the dangers of DDT and what have you, but I was sort of like the roaches. I absorbed it and got over it and kept going. It didn't work on them and it didn't work on me either. [Laughter.]

But not only did I but all of my colleagues who wanted to have the little bitty jobs got it. And then I graduated and became a person that worked in the migrant fields.



And now I'm fortunate enough—I'm fond of saying that I go back—and I know, Ambassador, that you have a little bit of a Florida background—and the best football team in Florida today at South Florida, as it were.

But I have a total background in the State of Florida, and I thought of a time when I weighed about 119 pounds, and we were working at an agricultural product, chicory. We were cutting chicory.

And the man that was the straw boss determined that I was to load at that time, and I didn't have the physical capacity to lift and throw those bundles onto a truck.

And so I quarreled with him. And this is in the halcyon days of segregation. And he informed me that I had to go back to the migrant bus and wait. And I told him I'm not going to wait, I want my money right now.

And I'll never forget. He slapped me, and I hit him with a shovel, and—

[Laughter.]

Mr. HASTINGS [continuing]. I ran all the way home, which was about 12 miles from Umatilla at that time, and my grandmother sat on the porch with a shotgun awaiting him to come.

They beat just about everybody in the migrant coterie, and none of them would tell them who I was or where I lived. And I guess that's attendant to how I'm here today.

Later I went on to work in Belle Glade, FL, and in Kahulke picking beans, especially, and then being on the back of a migrant truck, coming up to Connecticut.

And I cite to it only for the reason that now I represent Kahulke and Belle Glade. Thanks to the laws that developed over time and, of course, went on to assist in developing the legal services to migrants program, which I think has strengthened in some particulars the rights of migrants who still find themselves substantially taken advantage of in the labor market.

Again, I'm not referencing the sexual exploitation.

And then, Mr. Plant, you'd be pleased to know that my mother, who was an impressive person, went on, along with my dad, to become domestic servants.

Fortunately for them, they worked at the high end of domestic service for extremely wealthy families in Queens and in Beverly Hills and in Bel Air, California.

But I remember my mother talking about wanting to write a book called "Thursday and Every Other Sunday." During the hours that they were on call during that entire period,—if the boss came home at 1 o'clock in the morning, they had to get up and prepare a party.

They were on the job, lived there, primarily for the reason that they wanted to assist in me going to college. So these things do have a real tinge to them.

My mom wanted to organize me in the United States of America something that probably still needs to be done, because very occasionally we find not only in the field that you all have so aptly described, that people are taken advantage of.

That's my little story that I wanted to share.

Ambassador, I did have for you a question. Ms. Biaudet and I were talking about—and I have heard rather repeatedly, including recently when the Chief of Staff of the Helsinki Commission, the young fellow over here on the right—Fred Turner and I were in Slovenia for the fall and Mediterranean conference of the Parliamentary Assembly of OSCE.

And while there, I had an opportunity to talk with Marc de Brichambaut, who is the OSCE Secretary General. And of course, he has been here.

I don't know whether he has met with your good offices, but he has been here on numerous occasions meeting with officials at the State Department.

And a concern that's being expressed by him and others—and I add my voice to that—is that there is considerable talk about cutting the budget of the OSCE, which, if that were to occur, would cut the mission in the OSCE, which if that is to occur would cut the projects that allow Ms. Biaudet and others to feed into trying to address this enormous problem in the OSCE sphere.

What, if anything, should we be doing or can we do? And not because you're at crosshairs with your superiors at State, but you get my drift.

Amb. LAGON. You bet. I've been in this job for 4 months, and I come to it from having been the deputy assistant secretary for international organizations.

So funding issues and international organizations is something I've thought about a good deal.

We need to make sure that when we look at fiscal responsibility and the overall budget line that those functions that are most vital, like helping those who are victims of human trafficking not get undercut.

I think the United States needs to use its substantial voice to make sure that's the case within the OSCE budget. I can't speak to the overall funding level, although I think it's important that if we are careful and cautious and conservative about funds, that we not [inaudible] the most important [inaudible] function.

Mr. HASTINGS. Yes. I appreciate that very much.

One of the participants in the audience submitted this question, and it's directed to you, Mr. Feinberg—You said although ICE provides entry into the United States via visas, et cetera, and Federal jobs or other work opportunities. Does ICE provide any kind of medical treatment for physical and/or mental diseases resulting from their abuse?

And if they do, is this treatment free or discounted? And how will the victims be treated upon rescue? And how will they continue treatment if their work does not afford it for them?

Mr. FEINBERG. Thank you, Mr. Hastings. First of all, I just want to—for the record, ICE is a law enforcement organization. We do not issue visas. That's the State Department.

We do have a little bit of oversight on the issuances of visa, but the U.S. State Department is the one that issues visas.

Our job is strictly trying to identify victims and then work with NGOs and other government agencies to help them.

We ask the victims provide information and to serve as witnesses to prosecute international and domestic organizations that are exploiting men, women and children for these crimes.

And then we will help—we will work with Health and Human Services and faith-based organizations and other NGOs to get them the help that they need.

We also, because of our immigration authority, can give the victim Continued Presence into the United States so they don't have to worry about their immigration status if they were illegally present in the United States before assisting with a trafficking investigation.

So we have a few weapons in our arsenal. We can help them as well as work with the organizations to help them recover from their violation.

Mr. HASTINGS. We also had a question from the audience, I guess, that was directed to all of you—is how do you respond to Mr. Markon's—and I stand to be corrected as to the pronunciation.

I read some of the series—the Washington Post article of September 23rd, quote, “Human Trafficking Evokes Outrage and Little Evidence,” unquote. Do either of you have any response?

Amb. LAGON. I would be happy to start. And I tried to address that through Mr. McIntyre's good questions, in part.

I think it's right that we don't have an exact idea of the scale of the problem. We're quite clear that to be able to pursue prosecutions and to help victims, you have to find them first.

And when I share with other countries our experience about how we try and build cooperation between governments; national, local law enforcement; social services; with NGOs, that's essential.

In particular, I've got to emphasize that civil society organizations, non-government organizations, are the ones who have to help find victims. They often times are the least threatening.

When victims believe that they're just going to be treated as disposable people, they're going to be treated like criminals, they're going to be seen as just a mere prostitute—this is only a migrant worker, sadly—they are hard to find.

So the numbers aren't what the estimates had said, but those estimates are just that, estimates. I strongly agree with Ms. Biaudet's suggestion that we need kind of actionable research.

If we get hung up on what is the global number, and we don't take finite funds and look at particular migration patterns, particular sectors of the economy, to reverse engineer the profitability to traffickers, we're not taking the right first steps.

Mr. HASTINGS. In your interagency approaches, are you all producing reports or—

Amb. LAGON. Yes. I chair something called the Senior Policy Operating Group on Trafficking. We have a subcommittee on research, and we made this very decision that to devote a lot of resources to getting the overall global number would be a mistake.

But devoting resources, just as our colleagues in the Department of Justice and some other places are, to specific problems—for instance, the National Institute of Justice is looking at particular flows from Mexico and Central America or from East Asia, and what the exact textured circumstances are.

I think that's the way to go.

Mr. HASTINGS. Yes, Kevin?

Mr. BALES. Mr. Hastings, if I may, because I've stated my previous incarceration was as a professor of social statistics and research methods—and I was very dismayed to read that article in the Post, not least because he used only Federal prosecutions as listing the number.

And yet we know from the research that only about one-third of all trafficking cases that are found reach law enforcement, much less Federal law enforcement. The others come through social service providers, hospitals, medical—so forth.

And yet all of that information was out, easily available, and he seemed to be unable to find the fundamental research that's out there.

Mr. HASTINGS. [Inaudible.]

Mr. BALES. Now, if I could say that that doesn't answer the question—solve the problem.

And I think one of the things that's very important to highlight—and Ambassador Lagon has, in a sense, raised it—which is that we actually have within the Federal Government and some of the related agencies and international organizations a series of very large-scale data sets which are held in completely watertight compartments from each other.

And I've met with a number of the agencies that hold these data sets, and I've asked and pointed out that normally at this point in the development of research agenda, particularly, say, in the area of epidemiology, you conduct what's called a meta-analysis by combining a whole series of existing data sets to discover the epidemiological, if you will, of this particular illness of trafficking.

At the moment—and this is why I wanted to say this in front of the Ambassador—is that the decision to open the doors of those data sets to each other across the bureaucratic lines has to come from the top, from the Senior Policy Operating Group.

I've attempted to speak to the people who work with those data sets, the computer nerds and analysts who work those data sets, but they say it's above my pay grade, we can't begin to share information.

If we could reach that point of sharing that information, we don't know if it would be great results or not, like much blue sky research is. But I suspect that we'd find many new things to help us make the best of—

Mr. HASTINGS. Right.

Ambassador, you were going to followup with something?

Amb. LAGON. That is a good idea and, in fact, our interagency group meets at the cabinet level on October 25th. Secretary Rice is the chair, so we should look to discuss it.

Mr. HASTINGS. Yes, sure.

Amb. LAGON. Just one other thing. I was just going to say another way another way that the Markon piece doesn't capture all of reality is the difficulties found in—we have a formalized way that the identified victims who are foreign nationals—we certify them for benefits and we give them [inaudible].

We have the sense that there are victims who are American citizens—are getting access to social benefits that they have rights to, but there isn't a formal certification process.

Mr. HASTINGS. I follow you.

Amb. LAGON. Very important that we not only split—we avoid splitting sex trafficking from forced labor, but we also serve all victims, foreign nationals, and U.S. citizens, without any zero sum games.

Mr. HASTINGS. Yes. Mr. Markon was here earlier. I don't know whether he's still here or not.

Mr. MARKON. I'm right here.

Mr. HASTINGS. You are? Reaction?

Mr. MARKON. I'm sorry, I can't.

Mr. HASTINGS. Question?

Mr. MARKON. I'm just here to take notes.

Mr. HASTINGS. Oh, OK. That's the first time we shut a journalist up. [Laughter.]

I'm sure that he'll have a reaction.

But I wanted you all to interact with each other.

Ms. Biaudet, if you don't mind, in the interest of time, I know you want to ask each other some questions, and I want to give each of you about 30 seconds to wrap up, since we are running out of time with this room.

But Ms. Ponticelli was taking copious notes, and so my formula or at least this new paradigm is working a little better than some of this other stuff I've seen, and she might have a few questions that she wanted to put to you that might be useful for all of us.

Yes.

Ms. PONTICELLI. Thank you. Thank you, Mr. Chairman.

I think it's very—first of all, on the collection of data—and I think the really global challenge for all of us—identifying the victims. I think it's a global—it's not just a U.S. challenge. It's a challenge, I think, for every country around the world trying—working hard to deal with this problem.

And I think that one aspect of the complexities and sometimes the apparent insurmountability of this problem—and I think it's a dimension we haven't had a chance to really discuss that much today, Mr. Chairman—and that has to do with what I mentioned in my statement, one of the key root causes, poverty and lack of economic opportunity.

So I would say that if someone were to ask me where do we need to devote, perhaps even increase, attention, additional attention, I would say two areas, particularly for the main focus of our bureau, which is to prevent children from entering and to rescue them from what we call the worst forms of child labor.

One is education, the key. And second, of course, education writ broadly—job skills, access to alternative livelihoods.

You mentioned from your personal story, which I really commend—and I felt that was very, very moving—there are other forms of bad labor, exploited labor, that children—we all know about the situation, of course, of child soldiers.

We know about children in other kinds of bondage. We know about children that are taken into prostitution, into hazardous occupations, as you mentioned.

And I think that this is where the United States, if we look at total numbers—I think the problem is so complex and so multi-dimensional—how many children may be in a hazardous working

situation, how many children may be in another kind of forced labor situation that might not be classified as per se trafficking.

And I think this is where our partnership—certainly within the Department of Labor—our partnership with the Wage and Hour Division which inspects workplaces, which secures compliance, which stands up for labor standards and workers' rights, whether that person is someone born here or someone who comes from abroad.

It's a tremendous partnership that we have, and to work with that bureau and with the Employment and Training Administration, which has some excellent models of success that we've been sharing with other countries—the One-Stop Career Centers, which can be a rescue and education tool as well.

So I just want to kind of [inaudible] a long way of saying I think that—

Mr. HASTINGS. Are you going to put a question to her?

Ms. PONTICELLI. I would like to know perhaps in the context of OSCE, or perhaps ILO as well—we are the largest, of course, contributor to the ILO's efforts to eliminate forced labor and child labor.

What should we be doing more in terms of addressing those root causes of economic opportunity—lack of economic opportunity, lack of access to quality education?

Mr. HASTINGS. Ms. Biaudet?

Ms. BIAUDET. Well, I think one very important thing is, of course, also to look at—you all know that when children are not in school they are very much at risk of getting into anything—I mean, not only becoming victims of trafficking, but they can—many, many horrible things can happen.

So I think this, of course, is crucial. But we know also that many, many countries don't allow undocumented children to go to school in practice.

So I think there are lot of easy practical issues that could be addressed if there would be political will to address these issues that would put these children less at risk.

We also know that I think—or I don't know really for sure, but I think there are more than 8,000 children coming unaccompanied at the borders of the U.S. every year. What happens to those? Do we really know?

We know that there are a lot of missing children in Europe. Nobody knows where they are. They come from China. They come from different places.

They are not recognized as trafficking victims, which is interesting when we have this numbers question, because when they come unaccompanied, usually they are just sort of smuggled or [inaudible] but they have been—you know, they are trafficked.

And research show that it's very likely that they might be trafficked, but they are, of course, not in the destination so the intervention, the protection, has to come much earlier—it's not so important if there is a definition of trafficking or not, because the child needs the protection.

So there are a lot of practical issues we can do, but it sometimes mean that we have to change our system a little bit. It doesn't always mean that we have to compromise our other interests. But we

just have to think a little bit out of the box once in a while, perhaps, and create these and take them into account.

Of course, also, as a multilateralist, I think the U.S. efforts in the OSCE are very important. Sometimes, though, I think if the multilateral approach would be stronger politically, it might be beneficial also for having results in other countries, because I think this is how it has to be.

And there is a lot to show of experience and a lot of lessons learned from each other but also from the United States.

Mr. HASTINGS. Mr. Plant?

Mr. PLANT. Thank you, Chairman. I'd like to use my time to compliment what Ms. Ponticelli has just said. I think it's tremendously important to see the linkage between the fight against forced labor and slavery and overall poverty reduction approaches.

It's really essential to mainstream this on development, anti-poverty agendas, with the World Bank, et cetera. Kevin Bales and myself—I know we're going to be participating together with the World Bank in a couple of months in this, and I believe Ambassador Lagon as well.

And I'm glad I've got meetings with both of you later today, because I was working very hard trying to map out—think of a strategy on that.

The only thing I would add to what you're saying is yes, education for children, but please remember that in the current state of affairs the most vulnerable people are going to continue to move.

It's going to be a long time before they can earn their livelihoods at home. We're going to have to accept contract labor and migration, which is why what Ambassador Lagon said about contract labor is so important.

Think of how much remittances contribute to poorer countries. Let's think how much more the poorer people would get if the profits were not siphoned off by abusive labor contractors, et cetera.

So let's remember that when we're thinking of adequate anti-poverty strategies, we've got to think of labor market, government, operating all of these systems.

You're not going to—we've always got to think that this is a question of movement, and we've got to empower people to get better earnings when they're traveling abroad, better protection, as well as getting education, livelihood, vocational training at home. They're all important.

Mr. HASTINGS. Ms. Biaudet, former Senator Robert Graham and I introduced legislation dealing with unaccompanied minors and it did not see the light of day in the U.S. Congress.

I would end at this time, as I'm required to for use of the room, but I would like to say, in closing, that these kinds of hearings are particularly helpful to those of us that are policymakers.

And, Ambassador Lagon, you had the good fortune of working in some of the developmental legislation and now you see it from an executive capacity.

You would know that former Congressman Sam Gejdenson and Chris Smith, who is the Ranking Member of the Helsinki Commission, did extraordinary foundational work in this arena.

And Chris has really no peers in dealing with the subject of human trafficking. Much of his work is still ongoing. But what we

need from you is empirical data and the collection of that data put in some form so that we can address it.

One of the things that I think that we did—and, Dr. Bales, I don't accuse you of naiveté, but I do suggest, to be provocative, that you think outside the Western confines. Many of these countries don't give a happy hoot about what we're talking about, and their leaders have rubber stamp parliaments.

Mr. Plant spoke about developing the judiciary. I can't tell you the amount of time that I spent discussing with my colleagues that when we are talking about going someplace and trying to cause democracy to take root, it has as a component not just free and fair elections, which are critical, but the rule of law.

And if you don't have an established rule of law, then you're not going to be able to do the things that are vitally necessary. Just to flag for all of you all, Ms. Biaudet and I were talking earlier before this hearing—I have legislation that I've developed.

And it's astounding to me that so few of my colleagues, Commissioners included, on both sides of the aisle are not ignoring but choosing not to address the significant number of Iraqi refugees that have been created by virtue of the intervention.

I'm not talking ideologically whether we ought to be there, who got there, what we went there for. The simple fact of the matter is a significant number of people have been displaced externally and internally, burdening other countries, not necessarily in the OSCE sphere, but certainly this matter should be important to the United States.

And yet we don't have a true mechanism for accepting and dealing with those refugees. State is beginning to address it. Ms. Sauerbrey and others—Dan Fried and I have had discussions about this.

But that's going to be an enormous problem that's going to feed into, in another form, the same kind of thing we are talking about, although it's in another part of the world.

I guess we could go on and on and on, but I had the last word.  
[Laughter.]

[Whereupon, at 12:03 p.m., the hearing was adjourned.]



## APPENDICES

### **PREPARED STATEMENT OF HON. ALCEE L. HASTINGS, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Good morning, ladies and gentlemen, and welcome to this Helsinki Commission hearing on combating trafficking for forced labor purposes in the OSCE Region, including the United States.

Trafficking in human beings is an egregious human rights violation and a serious transnational crime facing governments all over the world. According to a 2005 International Labor Organization report, of the 12.3 million victims of forced labor, approximately 2.4 million were trafficked for forced labor purposes.

Trafficking for forced labor is a major problem in many OSCE countries. In Armenia, for example, both men and women are trafficked for forced labor, while an International Organization for Migration (IOM) report asserts that 38 percent of trafficked persons assisted by IOM in Belarus were male victims of forced labor. Although the U.S., like many other OSCE states, continues to be challenged by limitations in the systems utilized for data gathering in human trafficking cases, we have seen progress in our anti-trafficking efforts. In one significant case, U.S. Immigration and Customs Enforcement, working with the FBI successfully investigated and prosecuted organized criminals who were trafficking Eastern European women into the United States to work as exotic dancers in Michigan. In his book *Nobodies: Modern American Slave Labor and the Dark Side of the New Global Economy*, John Bowe describes three cases of forced labor in the U.S.: in Immokalee, Florida, Tulsa, Oklahoma, and Saipan (a U.S. commonwealth in the Western Pacific).

Trafficking for forced labor frequently involves physical and psychological abuse of the victims; generates millions of dollars in illicit financial profits to the perpetrators, which are often organized criminal groups; and leads to thousands of migrants crossing international borders with fraudulent documents.

Trafficking in persons for forced labor purposes is less understood than trafficking for sexual exploitation because it has largely remained a hidden form of exploitation. However, it is no less serious. In the OSCE region, it has accelerated in recent years as a result of the economic disruption caused by the collapse of Communism in the former Soviet Union and Eastern Europe, as well as the wars in the former Yugoslavia. A high worldwide demand for women and children as sex workers, sweatshop labor and domestic servants has fueled the market for forced labor. At the same time, increasing restrictions on immigration to many destination countries, including the United States and Western Europe has led many migrants to turn to human traffickers, despite the risks involved.

The OSCE demonstrated its commitment to combating trafficking in human beings in 2003, with the adoption of the OSCE Action Plan to Combat Trafficking in Human Beings. Among other requirements, the Action Plan calls upon member states to make

forced labor a crime by incorporating the definition of human trafficking contained in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. The establishment of the position of Special Representative and Coordinator for Combating Trafficking in Human Beings has given greater focus to addressing this critical challenge in the OSCE region.

Since the adoption of these anti-trafficking protocols, the OSCE participating states have made significant strides in combating the sexual dimension of human trafficking. But there is a growing consensus that more needs to be done to understand the scope and challenge of humans trafficked for forced servitude.

Presently, many member states have not adopted legislation to specifically address trafficking for forced labor purposes. In addition, much of the resources and early anti-trafficking efforts have been directed at identifying and prosecuting sexual trafficking cases. The U.S. Trafficking Victims Protection Act (TVPA) of 2000, which was authored by Helsinki Commission Ranking Member Christopher Smith, includes in its definition of human trafficking, “the recruitment, harboring, transportation, provision, or obtaining of a person for labor services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”

Yet, we have seen relatively few prosecutions of forced labor perpetrators. A September 23rd Washington Post article on the subject of human trafficking raises several questions which are worthy of examination: Are there in fact, significant numbers of trafficking cases that go undetected? Or do we simply not have a full grasp of the scope of human trafficking? Or conversely, how reliable are trafficking statistics?

This morning, we examine these issues as we hear from two expert panels on efforts to combat trafficking for forced labor purposes in the OSCE region. We look forward to the testimony of three key U.S. government agencies, represented by Ambassador Mark Lagon, from the Department of State, Ms. Charlotte Ponticelli, from the Department of Labor; and Mr. Michael Feinberg, from the Department of Homeland Security’s Immigration and Customs Enforcement. We are also grateful to have the participation of Ms. Eva Biaudet, the OSCE’s Special Representative and Coordinator for Combating Trafficking in Human Beings, Mr. Roger Plant, of the International Labor Organization, and Mr. Kevin Bales, of Free the Slaves. The witnesses bios are available at the entrance.

Without objection, your prepared statements will be entered into the Record. Please summarize your oral testimony. Ambassador Lagon, you may begin.

**PREPARED STATEMENT OF CHARLOTTE M. PONTICELLI, DEPUTY UNDERSECRETARY FOR INTERNATIONAL LABOR AFFAIRS, BUREAU OF INTERNATIONAL LABOR AFFAIRS, U.S. DEPARTMENT OF LABOR**

Good morning, Chairman Hastings, Co-Chairman Cardin, and distinguished members of the United States Helsinki Commission. I am pleased to be here today on behalf of the U.S. Department of Labor. Thank you for holding this hearing on the trafficking of humans for the purpose of forced labor—one of today's worst human rights tragedies. It is an honor to be here today with my fellow panelists, who are all dedicated to the global fight against human trafficking—Ambassador Mark Lagon (U.S. State Department/G-TIP), Mr. Michael Feinberg (U.S. Department of Homeland Security), Ms. Eva Biaudet (OSCE), Mr. Roger Plant (ILO), and Mr. Kevin Bales (Free the Slaves).

The United States is committed to ending the brutal practice of human trafficking. As President George Bush stated at the signing of the Trafficking Victims Protection Reauthorization Act in January 2006, "Our nation is determined to fight and end this modern form of slavery." In signing this legislation, the President also called upon other nations to take action. The U.S. Government is working at home and with other governments, such as the 56 countries participating in the Organization for Security and Cooperation in Europe (OSCE) to eliminate human trafficking around the world. Alone, we can have an impact, but together we can have an even greater and more lasting impact.

Across the world, the transnational phenomenon of human trafficking involves both trafficking for sex and labor exploitation. Trafficking for commercial sexual exploitation in OSCE countries, particularly in Eastern Europe, opened the world's eyes to the global problem of trafficking. Yet as we know from the ILO's 2005 report *A Global Alliance Against Forced Labour*, most victims of trafficking in the world are actually victims of forced labor. Private agents typically traffic these individuals through coercion, forcing them to toil in sweatshops and other hidden workplaces under brutal conditions with no access to legal protections.

In the OSCE region, the trafficking of adults for forced labor in the construction and agricultural industries is pervasive and the trafficking of children for commercial sexual exploitation and labor remains a grave problem. Children specifically trafficked for labor find themselves forced into begging, petty crime, street vending, and domestic work; or work in agriculture, construction, or manufacturing.

Albanian children, for instance, are often trafficked to beg in Greece or Italy. Other children from Eastern Europe, especially from orphanages and vulnerable Roma (Gypsy) populations, are trafficked to beg on the streets of large cities throughout Europe. They are often physically abused, underfed, addicted to drugs or alcohol, and have no access to education and health services. Children from Central Asia are trafficked, often by their parents or acquaintances, for the purposes of commercial sexual exploitation or for strenuous labor in markets, construction sites, and agriculture.

The illicit and hidden nature in which human trafficking occurs sometimes makes the search for solutions seem insurmountable.

Yet significant progress is being made, especially in research and data collection—key tools in the fight. OSCE member states have underscored the need for reliable research and data on the nature and magnitude of the trafficking problem to design policies and implement programs for prevention, and protection and assistance to victims.

From the Department of Labor's work on eliminating the worst forms of child labor internationally, data collection and research have been central to increasing our knowledge of the extent and nature of the exploitive child labor, including the trafficking of children. In compliance with Trade Promotion Authority, for example, the Department issues reports on respect for core labor standards, including forced labor, for all nations which the U.S. seeks negotiations for a trade agreement. The Department also produces the Congressionally mandated Trade and Development Act Findings on the Worst Forms of Child Labor report that includes information on forced child labor and child trafficking in 141 countries. Data collection and research efforts at the Department have laid the ground work for identifying priorities, designing strategies, and measuring and monitoring progress towards the elimination of these problems. The July 2007 Government Accountability Office's Report on Human Trafficking acknowledged that the Department of Labor had the necessary elements in place to monitor and measure the performance of its anti-trafficking projects.

Nonetheless, the development of policy and collection of data should not preclude the immediate and urgent need to rescue those men, women, and children who have been trafficked for forced labor.

At the Department of Labor, we are engaged both domestically and internationally in efforts to combat trafficking in persons for commercial sexual exploitation and forced labor. This engagement builds upon the Department of Labor's long history of working to protect and assist vulnerable workers.

The Department's Bureau of International Labor Affairs has been active in combating trafficking around the world, including in many OSCE countries, and has enlisted the support of several international, nongovernmental, and faith-based organizations. So far, more than 1 million children have been rescued from the worst forms of child labor and provided with education and training opportunities through DOL-funded projects.

Since 1995, the Department of Labor has obligated over \$595 million to organizations globally to prevent and withdraw children from exploitative work. Of this amount, the Department has set aside more than 40 percent, or \$219 million, to combat trafficking in persons for the purpose of labor and commercial sexual exploitation. In this year alone, the Department provided \$28.4 million to address the trafficking of children for commercial sexual exploitation and labor purposes.

Excellent examples of emerging good practices to eliminate the trafficking of women and children for labor are from U.S. Department of Labor-funded projects in the OSCE region. In 2003, the Department of Labor funded a \$1.5 million regional project through the ILO to work in the Central and Eastern European countries of Albania, Moldova, Romania, and Ukraine. This project, entitled

PROTECT CEE (Project of Technical Assistance Against the Labor and Sexual Exploitation of Children, including Trafficking, in Countries of Central and Eastern Europe), assisted in the rescue of 2,600 children. Children were provided with educational opportunities, skills training, and the necessary psychosocial interventions. The project was also successful in working with governments to advance legal reforms, including bilateral agreements, to protect and assist child victims of trafficking. At the community level, local government units in pilot areas have established child labor monitoring systems comprised of teachers, labor inspectors, and health professionals to document and refer trafficking victims to social service providers for rehabilitation services. To expand on these efforts, we funded a second phase of the project at \$ 3.5 million in FY 2006 to include Bulgaria and the UN Administered Province of Kosovo.

Through President Bush's \$50 million anti-trafficking initiative, ILAB also funded a \$1.25 million project through Catholic Relief Services in the Republic of Moldova in 2004. The project targets young, at-risk women and seeks to reduce the incidence of trafficking and assist victims through a combination of job development, employment assistance, and skills training. We have found that a root factor contributing to the vulnerability of trafficking victims—poverty—can be tackled by creating economic incentives and employment opportunities that offer legitimate and sustainable forms of income.

The U.S. Department of Labor has also been pleased to participate in the last two sessions of the OSCE Alliance Against Trafficking in Persons Conference. Experts from the Department of Labor's Wage and Hour Division shared the unique way investigators carry out civil law enforcement in the nation's workplaces, and are able to identify individuals who have been trafficked into forced labor in the United States. Working to ensure compliance with domestic labor laws such as the Fair Labor Standards Act and the Migrant and Seasonal Agricultural Worker Protection Act, Wage and Hour investigators monitor workplaces, especially low-wage industries, on a daily basis and are often the first government authorities to witness exploitive conditions and talk to victims.

By participating in more than 38 local human trafficking taskforces around the country, which include federal, state, and local law enforcement agencies as well as nongovernmental organizations, faith-based organizations, and assistance based organizations, the Wage and Hour Division takes part in law-enforcement networks designed to end the practice of human trafficking in the United States. In fiscal year 2007, the Wage and Hour Division collected over \$85,900 in back wages and liquidated damages for 61 workers in response to 7 task force-referred or other trafficking-related investigations.

It is this type of collaboration and information sharing that will allow us to advance our efforts and make a real difference.

At the Department of Labor, we are continuing to focus on several critical areas in the fight against human trafficking: institutional and legal reforms, capacity building to implement these reforms, and direct assistance to victims and potential victims. We are proud to be a part of the U.S. Government's interagency efforts

involving the Department of State, Department of Health and Human Services, Department of Homeland Security, Department of Justice, and U.S. Agency for International Development to assist current victims of trafficking, and those at-risk of entering harm's way.

I want to commend the Helsinki Commission for helping to bring the plight of trafficking victims in the OSCE region to the attention of the American public. Thank you again for allowing me to join you today for this important event.

**PREPARED STATEMENT OF MARK LAGON, DIRECTOR, STATE DEPARTMENT OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS**

Chairman Hastings and members of the Helsinki Commission:

Thank you for the opportunity to personally discuss with you the State Department's efforts to combat human trafficking for forced labor purposes. I am pleased to appear this morning with my esteemed colleague Deputy Undersecretary of Labor for International Affairs, Charlotte Ponticelli, and Acting Director for U.S. Immigration and Customs Enforcement, Michael Feinberg, as well as, partners in our anti-trafficking efforts, Ms. Eva Biaudet, Mr. Roger Plant and Mr. Kevin Bales.

Crucial among the ten principles guiding relations between participating OSCE nations is a commitment to "respect human rights and fundamental freedoms." The strength of this commitment is expressed in the combined efforts of the United States and other OSCE states to protect victims from trafficking, a violation against basic human dignity that is the modern-day equivalent of slavery.

As the Department of State continues to increase attention on slave labor in addition to the dehumanization of sex trafficking, I appreciate the commission's hearing this morning on this important issue. The 2007 Trafficking in Persons Report sheds new light on the alarming trafficking of people for forced labor purposes.

Forced labor is a form of human trafficking that can be harder to identify and estimate than sex trafficking. For this reason, too often the victims go unnoticed. Every day, all over the world, people are coerced into bonded labor, exploited in domestic servitude, and enslaved in agricultural work and in factories. They are victimized by unscrupulous employers who take advantage of vulnerabilities, especially among immigrants, young women and children.

Each year as we add to our knowledge of the trafficking phenomenon we are better able to locate, rescue and assist these victims. This year we noted several disturbing global trends which speak directly to the plight of labor trafficking victims.

The first is the use of debt as a tool of coercion. In labor as well as sexual exploitation, illegal or illegitimate debt is increasingly used to keep people in servitude. This debt is employed by traffickers as an instrument of coercion, especially among migrant laborers. Migrant laborers from developing countries are often legally contracted by labor agencies or respond to ads to perform low-skilled work in developed countries. For this "privilege" they are required to make a steep payment up front for the services of the labor agency arranging the job or as a finder's fee that goes straight to the future employer. What follows is a terrifying set of circumstances in which unfair debt captures an indebted worker.

For example, a contract labor agency in Bangladesh advertised work at a garment factory in Jordan. The ad promised a three-year contract, \$425 per month, eight hour workdays, six days a week, paid overtime, free accommodations, free medical care, free food, and no advance fees. Instead, upon arrival, workers (who were obliged to pay exorbitant advance fees) had passports confiscated, were confined to miserable conditions, and were prevented from leaving the factory. Months passed without pay, food was inad-

equate, and sick workers were tortured. Because most workers had borrowed money at inflated rates to get the contracts, they were obliged through debt to stay.

The sad truth is that we find workers across the globe holding on to the thin hope that they will eventually get paid, or that conditions will improve, because if they leave, there is no hope that they will be able to repay the debt. Last year, press reports indicated that in Poland, announcements in local newspapers lured workers to Italy for seasonal jobs picking fruit and vegetables. They were promised an hourly wage of up to \$7.50, only after paying a finder's fee and travel costs. Once in Italy the reality was much different. Nearly 100 Polish workers were forced to live in barracks with no sanitation or running water, fed only bread and water and were paid just \$1.25 an hour. With these meager wages, they were unable to pay the room and board and were pushed into debt. Attempts to resist were met with severe beatings and torture.

Debt bondage is criminalized under U.S. law and included as a form of exploitation related to trafficking in the United Nations Protocol To Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (UN TIP Protocol). As noted in our annual report, major source countries must do a better job of protecting their citizens against this exploitation. They can do so by limiting pre-departure fees to reasonable levels and negotiating formal labor agreements with destination countries to secure their citizen's rights while working abroad. Destination countries should be active in making foreign workers aware of their rights, in assisting workers to exercise those rights, and in criminally prosecuting traffickers.

Private homes are another sphere which often escapes the law. In many countries around the world homes become prisons of involuntary servitude for domestic workers. Most are cut off from outside social contact. They work long hours, seven days a week for little or no pay with no guarantee of even food or an adequate place to sleep. These workers are particularly difficult to identify because their suffering is not witnessed by anyone outside the employer's family. They become trapped when they believe an attempted escape would result in physical harm to them or their families, or when their employers deceive them into believing escape would result in deportation or incarceration by local law enforcement.

A young west African woman I'll call Maggie for her anonymity went to the United Kingdom with her employers. She looked after their children every day until late in the evening. However, she was paid no wages. Her earnings as a cleaner were also confiscated by her employer. Her employers claimed she owed them for her airfare. But she couldn't just run away. She was trapped because her employers refused to return her passport unless she paid them 4,000 pounds (\$8,000).

Confiscation of travel documents including passports, identification and airline tickets is a form of coercion used to gain and exercise control over a victim. Without these documents, foreign workers are trapped, vulnerable to arrest, punishment, and deportation. U.S. federal law makes it illegal to seize documents in order to force others to work and foreign governments are encouraged to criminalize this form of coercion as well.



Prosecution is an important prong in our assessment of a country's anti-trafficking efforts. The vehicle for successful prosecution is through strong national anti-trafficking laws that cover both sex and labor trafficking. As we've seen, trafficking can take many forms, and all cases, whether for sexual exploitation or forced labor, should receive equal attention and stringent punishment by governments. Since 2000, the Trafficking Victims Protection Act (TVPA) has amended federal law to assign equally tough penalties for trafficking for sexual exploitation and trafficking for forced labor. Though many other governments have enacted criminal anti-trafficking laws, they often are limited to sexual exploitation and fail to punish trafficking for forced labor—including recruitment or transferring victims, use of fraudulent employment terms, and physical and psychological coercion—with equally tough criminal penalties.

Punishments resulting in fines and administrative sanctions by a country's Ministry of Labor, which may be sufficient for less serious labor violations, are not sufficiently stringent to deter the serious crime of human trafficking for forced labor. Governments can adequately address the serious crime of trafficking for labor exploitation only by assigning tough criminal penalties to its perpetrators.

As the head of the State Department's Office to Monitor and Combat Trafficking in Person, I have seen firsthand in my travels the need to actively abolish this form of trade in people and I have seen the powerful impact when governments, NGO's, and individuals stand up to meet this need. No laborer, migrant, woman, man, child deserves to be shackled by debt, chicanery, and intimidation by fellow members of humankind. At the heart of the U.S. government's victim-centered approach to ending human trafficking is a commitment to human dignity—a desire not only to rescue people, but restore their dignity. The OSCE and its Coordinator for Combating Trafficking in Human Beings, Eva Biaudet, play a key role, and are to be recognized for their committed effort, in the fight against human trafficking. The OSCE, the UN Office on Drugs and Crime, the International Labor Organization, and the International Organization of Migration are among those collective efforts from Vancouver to Vladivostok addressing slave labor.

Thank you again for this opportunity to testify before this Commission and for its support in the global struggle to abolish modern day slavery. Steps to mitigate, regulate, unionize aren't enough. Abolition is the goal. I look forward to answering any questions you may have.

**PREPARED STATEMENT OF MICHAEL E. FEINBERG, ACTING  
DIRECTOR, OFFICE OF INTERNATIONAL AFFAIRS, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY**

Good morning, Chairman Hastings, Co-Chairman Cardin, and distinguished members of the U.S. Helsinki Commission. It is my privilege to appear before you today to discuss Immigration and Customs Enforcement's (ICE's) efforts against human traffickers who exploit men, women, and children—a form of modern-day slavery. I would like to thank the Commission for its continued commitment to combating human trafficking, particularly in the Organization for Security and Cooperation in Europe (OSCE) participating states.

Among the Department of Homeland Security (DHS) law enforcement agencies, ICE has the most expansive investigative authority and the largest number of investigators. We also have more than 300 victim-witness field coordinators, which is more than any other U.S. agency. Our mission is to target the people, money, and materials that support terrorist and other criminal activities. ICE accomplishes this by investigating and enforcing our immigration and customs laws, including laws related to human trafficking and forced child labor.

**ICE's ROLE IN COMBATING TRAFFICKING**

While the focus of today's testimony is on forced labor trafficking, much of what I will say applies to ICE's efforts to fight all forms of trafficking, whether for sex or labor exploitation. ICE special agents place a priority on rescuing trafficking victims and investigating allegations of trafficking, regardless of whether the victims were made to work against their will or whether they were unlawfully induced into a sexual exploitative situation. As part of ICE's victim-centered approach to trafficking, we also provide the same access to victim assistance to all trafficking victims.

ICE's aim in all trafficking cases is to systematically disrupt and dismantle the international and domestic operations of human traffickers, identify and seize assets and illicit proceeds, and identify systemic vulnerabilities that may be exploited by criminal elements to undermine immigration and border controls.

There is an important distinction between the terms "human smuggling" and "human trafficking." These are not interchangeable terms. ICE views human smuggling as the importation of people into the United States involving deliberate evasion of immigration laws. Human trafficking on the other hand comes in two forms: trafficking for sexual exploitation in which commercial sex is induced through the use of force, fraud, or coercion or in which the person induced to perform such act has not attained 18 years of age; or labor exploitation, which is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjecting the person to involuntary servitude, peonage, debt bondage, or slavery. It is unnecessary to prove force, fraud or coercion in cases of commercial sex acts where the victim is under 18. Sim-

ply stated human smuggling is transportation-based and human trafficking is exploitation-based.

ICE has jurisdiction within the U.S. for all human smuggling and forced child labor cases that have a nexus to the movement of people or goods across the U.S. borders. U.S. Federal law grants both ICE and the Federal Bureau of Investigation the authority to conduct trafficking investigations. Internationally, ICE does not have the authority to conduct any investigative activities without the consent of the host country. These restrictions vary by country. Thus, ICE relies heavily on the relationships it is able to form with its foreign law enforcement partners to investigate cases with a nexus to the United States. The majority of ICE's overseas investigative activities occur in connection with cases that originate within the United States.

ICE builds and maintains strong international relationships through our 50 offices located in 39 countries throughout the world, including 11 OSCE member countries. We work with host country law enforcement to better coordinate investigations and to fully identify and pursue criminal enterprises. This is accomplished by targeting recruiters, brokers, document providers, travel agencies, corrupt officials, smugglers, and associated businesses engaged in criminal activities at source, transit, and destination countries. We also work with foreign law enforcement partners to target bank accounts, wire transfers, and funding mechanisms that fuel criminal enterprises. In addition, we coordinate with NGOs, international organizations (IOs), and foreign law enforcement agencies to enhance awareness and to increase efforts to combat human trafficking in source and transit countries.

ICE also holds the permanent directorship of the Human Smuggling and Trafficking Center (HSTC), a joint venture of participating investigative and intelligence agencies, including DHS, the Department of State, and the Department of Justice. Its main focus is to combat support for clandestine terrorist travel, human smuggling, and trafficking in persons. The HSTC is also the official point of contact for Interpol regarding trafficking matters, and has established direct ties to other international organizations such as Europol and the United Nations Office of Drugs and Crime (UNODC) Anti-Human Trafficking Unit. ICE is an active participant in the Senior Policy Operating Group and regularly coordinates with our partners at the Federal Bureau of Investigation, Diplomatic Security and the Department of Labor.

ICE recognizes that merely focusing on stopping the supply of trafficking victims is not enough to end human trafficking. Instead, attention must also be paid to ending the demand of those who seek to exploit trafficking victims. ICE addresses this problem through aggressive investigation and prosecution of traffickers and violators of the PROTECT Act of 2003, those individuals who travel for purposes of sexual exploitation of children. ICE agents have made more than 60 arrests under the child sex tourism provisions of the PROTECT Act of 2003. ICE recently produced a public service announcement, which will further educate the public in identifying trafficking victims and hopefully reduce the demand for prostitution if the customer realizes that the sex provider might be a victim of trafficking.

Using its customs authorities, ICE also conducts investigations based on laws that ban the importation of products that are made with forced child labor and prison labor. Through the Tariff Act of 1930, DHS has the authority to prohibit the importation of any goods made with convict, forced, or indentured labor. If it can be shown reasonably, but not conclusively, that a product being imported is made with forced child labor or prison labor, then the Commissioner of Customs and Border Protection (CBP) has the authority to detain that item at the border. If probable cause has been established that the product has been made with forced child or prison labor, and the consumptive demand and de minimis requirements are met, then the item may be excluded from entry. These investigations allow the U.S. to keep products from entering our country that are made by forced labor trafficking victims in other countries.

### SUCCESSFUL INVESTIGATIONS

Here in the United States, we continue to target traffickers. In one 2005 ICE-led investigation, conducted in collaboration with the Federal Bureau of Investigation and the Internal Revenue Service, we targeted a criminal organization engaged in the smuggling and trafficking of Russian, Czech, and Ukrainian women into the United States. The victims were forced to work as exotic dancers at Detroit-area strip clubs in order to repay smuggling and other debts. The techniques used by the traffickers to control the victims included confiscating their passports and identity documents, imposing social and linguistic isolation, bugging the victims' apartment, rough physical treatment, and threats of violence. Investigative efforts resulted in the rescue of four victims, the imprisonment of two traffickers, the seizure of two weapons, two vehicles, and restitution to victims totaling over \$2,500,000. Specifically, in June of 2007, one of the defendants was sentenced to 14 years in prison and ordered to pay over \$1.5 million in restitution to the victims.

In another case that was completed in late 2005, a husband and wife smuggled more than 60 Peruvian nationals, including 13 children, into the United States. The couple charged the victims a smuggling fee of \$6,000 to \$13,000, confiscated their passports, and then, required the victims to perform work for them and other employers. The husband and wife kept most of the earning of the victims, leaving them with less than \$50 per week. The defendants used the money to purchase vehicles and real property on Long Island and in Peru. In addition to the smuggling fees, the victims were required to pay the defendants for over-crowded and unsanitary living space—frequently eight to ten persons per room with only one or two mattresses, and no more than two bathrooms for use by 30 or more individuals. The defendants also threatened to turn the victims over to law enforcement authorities if they refused to pay the defendants. The husband and wife pleaded guilty to conspiracy to commit forced labor, recruiting, harboring, transporting, and housing undocumented workers, and other charges. The wife was sentenced to 15 years in prison, while the husband received 11 years in prison. This case also demonstrates the importance of partnerships. ICE first received information about the case from a

non-governmental organization (NGO), which provides services to victims of human trafficking.

#### VICTIM SERVICES

ICE provides victim services through two full-time victim witness coordinators who are stationed at Headquarters as well as through more than 300 collateral duty victim witness coordinators in the field. ICE also provides victim assistance in the form of immigration relief through Continued Presence, which is a temporary status that permits a trafficking victim to remain legally in the United States during an ongoing investigation or prosecution. ICE coordinates with U.S. Citizenship and Immigration Services (USCIS) on which aliens should be granted T visas, a non-immigrant visa category for victims of trafficking. Trafficking victims who receive Continued Presence or T visas are then eligible for employment authorization and other federally funded or administered benefits or services.

#### ICE's OUTREACH EFFORTS

In addition to our international investigations, ICE focuses much of its anti-trafficking efforts internationally on training and outreach to foreign law enforcement, governments, and NGOs. We are engaged in an aggressive outreach campaign to educate local, state, federal, and foreign law enforcement, as well as NGOs, on how to identify human trafficking, the services and immigration relief available to trafficking victims, the roles of NGOs, and the distinction between human smuggling and human trafficking. We also provide a toll free number or tip line for human trafficking leads. We have developed brochures and a DVD for law enforcement officers, and laminated wallet-size cards with human trafficking indicators, which have been translated into five different languages. ICE is currently creating additional outreach material specifically for our attaché offices, including online information, booklets, and cards that will identify indicators of forced labor and provide suggestions for industries on voluntary compliance with U.S. forced child labor laws.

ICE has hosted and participated in numerous training sessions on human trafficking and victim issues for combined audiences of law enforcement, prosecutors and NGOs. We have developed human trafficking training modules, which are part of the permanent curricula at the International Law Enforcement Academies (ILEA) in Bangkok, Budapest, and San Salvador. Through ILEA, in fiscal year 2006, ICE trained 429 law enforcement personnel from 43 countries on trafficking investigations and working with victims.

Recently, the UNODC hosted a working group in Vienna, Austria, consisting of experts from the international law enforcement and NGO communities to develop human trafficking law enforcement training modules, along with modules covering a variety of other crimes. ICE served as the sole representatives from the United States aiding in the development and editing of these anti-trafficking training materials.

One of the reasons this aggressive training is so critical is because there is no perfect method to identify trafficking victims. Each situation is different. ICE has developed a series of indicators based on its past investigations, which provide assistance to law enforcement personnel in identifying whether a person has been trafficked. These indicators include: whether the victim is in possession of identification and travel documents; whether the victim was coached about what to say to law enforcement and immigration officials; whether the victim was recruited for one purpose and has been forced to engage in another job; whether the victim's salary was garnished to pay off a smuggling fee; whether the victim or the victim's family has been threatened with harm if the victim attempts to escape; whether the victim has been threatened with deportation or law enforcement action; and whether the victim was harmed or deprived of food, water, sleep, medical care or other life necessities.

ICE recently implemented a national strategy to foster closer relationships with federal, state, and local law enforcement agencies. As part of this strategy, ICE field offices have engaged in an outreach campaign to educate federal, state, and local law enforcement agencies and NGOs regarding ICE's expertise and role in human trafficking investigations, and the provision of Continued Presence.

ICE is working closely with the Department of Health and Human Services, the Department of Justice, as well as many non-governmental, community-based, and faith-based organizations to assist victims of trafficking. Our departments have launched anti-trafficking initiatives and task forces in more than 40 cities across the United States. These task forces combine state, local, and federal law enforcement to attack these criminal organizations. Collaboration between law enforcement agencies is done primarily through local human trafficking task forces.

#### CONCLUSION

In conclusion, ICE has the unique ability to use its global reach to investigate trafficking in persons and to provide short-term immigration relief to trafficking victims. We will also continue to expand our outreach and training efforts by sharing our expertise in employing a victim-centered approach to combating human trafficking.

I hope my remarks today have been helpful and informative. I would like to take this opportunity to thank the Commission for its support of ICE and our law enforcement mission. I will be glad to answer any questions you may have at this time.

**PREPARED STATEMENT OF EVA BIAUDET, SPECIAL REPRESENTATIVE AND COORDINATOR FOR COMBATING TRAFFICKING IN HUMAN BEINGS, ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE**

Honourable Chairman,  
Distinguished members of the Commission,

I am pleased and privileged to be able to testify before you here today on U.S. and OSCE efforts in combating trafficking for labour purposes and further measures I believe the United States and the OSCE should take in order to better protect our children, women and men from trafficking and exploitation.

**INTERNATIONAL LEGAL INSTRUMENTS**

Perhaps even more than trafficking into the sex industry, trafficking for forced labor is addressed within a broad framework of protections in international instruments addressing trafficking, forced labor, slavery, rights of the child and human rights.

The United Nations Palermo Protocol supplementing the UN Transnational Organized Crime Convention has provided the catalyst and guiding framework for the development of anti-trafficking legislation and supporting mechanisms by many OSCE participating States. It remains recognized by the OSCE and around the world as the central international instrument in the fight against human trafficking. The OSCE Office of Democratic Institutions and Human Rights (ODIHR) and OSCE Field Missions in Eastern Europe, South Eastern Europe, the Caucasus and Central Asia have worked with a number of OSCE participating States to conform their legislation to comply with the Palermo Protocol.

The Council of Europe Convention on Action against Trafficking in Human Beings, which will enter into force very soon, goes even further than the Palermo Protocol by formalizing ground-breaking victim protection measures, e.g. by emphasizing a human rights and victim-centered approach and imposing a minimum period for reflection and recovery periods as well as specific services for victims of trafficking.

These instruments are supplemented further by the 2003 OSCE Action Plan to Combat Human Trafficking and the 2005 EU Action Plan.

I am convinced that, the combination of these instruments provides countries with a sufficient framework to address labor trafficking. Together, these instruments reflect a set of minimum international standards that countries should enact covering criminalization, prevention and assistance that apply to trafficking for forced labor as well as sex trafficking.

Given the existence of this collection of multi-lateral instruments, there should be no confusion among OSCE participating States that trafficking for forced labor has to be addressed as an issue of priority. It is evident, for example, that countries that fail to criminalize labor trafficking in their laws, something which not all countries have achieved, have failed to meet the standard set in these instruments.

While it is possible to debate whether international laws could be stronger, for example whether the reflection and recovery periods

in the Council of Europe Convention are sufficient given evidence about long term mental and physical health issues suffered by the majority of trafficking victims, it should be remembered that these instruments set forth frameworks and minimum standards for countries. Each country should incorporate and adapt these minimum standards into their responses to labor trafficking and supplement these minimum standards with whatever more is needed to be effective given the country's experience and advances in our common understanding of what is required based upon rigorous research and analysis.

Our challenge is to get countries to enact at least these minimum standards reflected in these international instruments. The fact that they have not reflects the continuing challenge of the need to increase political will, not the absence of sufficient international legal instruments.

However, unfortunately, it is possible to anticipate a sizable challenge in attempting to gain political will in many countries in support of addressing trafficking for labor exploitation because of the strong link to economical issues such as regular migration, irregular migration and addressing the protection of undocumented women and children, as well as men, to diminish the factors that make people vulnerable of becoming trafficking victims. But this also is true of course regarding combating sex trafficking and issues of prevention, root causes and demand. Effective measures would require change of practices, some regulations and clearly of behavior, on behalf of new citizens in our societies and elsewhere, that is children and women and men who do not make political constituencies or political waves. Political change is always difficult to achieve, and even more so when there is no big political constituencies putting the pressure for change. Key is political will on high level, as have been the case also in the US history of anti-trafficking legislation.

#### IMPLEMENTATION BY OSCE PARTICIPATING STATES

Most, but not all, OSCE participating States have ratified the UN Palermo Protocol, and even less have implemented all its provisions. At the same time, the work continues and good progress is being made on ratification of the Council of Europe Convention.

Many OSCE Participating States have responded by enacting national legislation, national action plans, coordinating mechanisms, and national governmental coordinators. And I want to stress, that significant progress has taken place. Nevertheless, serious gaps still exist. Not all OSCE participating States have criminalized trafficking for labor exploitation. In contrast to the U.S. law's approach, a significant number of countries define trafficking only for purpose of sexual exploitation and do not yet recognize trafficking for labor exploitation or do not prioritize actions to tackle it.

Also, some countries' legislation would not seem to readily apply to cases of internal labor trafficking.

The result is that in countries that do not criminalize labor trafficking, potential front-line responders will not identify these cases properly and traffickers are unpunished. There also will not be a legal right to the possibility of assistance and protection for victims of labor trafficking. Moreover, if not defined in a country's law,



there is no possibility that data will be collected regarding the phenomenon by the government and law enforcement. Without such data there is no possibility of policies being informed by analysis.

All of these considerations mean that we collectively are operating from a position that is relatively very weak in responding to trafficking for labor exploitation.

Among OSCE participating States, even where such legislation against labor trafficking has been adopted, generally these laws have not been implemented against traffickers and in support of trafficking victims. One of the challenges seems to be clarifying conceptual understanding for developing workable legal definitions in national legislations. It is necessary to ensure that national criminal legislation has definitional clarity, including the concepts of forced labour, coercion, abuse of power and abuse of position of vulnerability.

There is still a lingering confusion about distinguishing between trafficking and illegal immigration and smuggling generally among many officials. This confusion seems to increase when discussing labor trafficking as many officials appear to have trouble identifying differences between labor trafficking and migration for economic purposes that results in sub-standard working conditions.

This confusion undermines the possibility of building political will to address labor trafficking. Unless conceptual murkiness is dispelled, labor trafficking will continue to be unnecessarily caught up in countries' concerns about illegal immigration, concerns that works against achieving sound anti-trafficking policy.

To respond to this need to increase awareness about labor trafficking among the OSCE participating States, the OSCE has taken steps to begin to bring additional attention to the issues involved in responding to trafficking for forced labor. In 2005 the OSCE hosted a conference titled "Human Trafficking for Labour Exploitation/Forced and Bonded Labour: Identification—Prevention—Prosecution"; and in 2006 a second conference titled "Human Trafficking for Labour Exploitation/Forced and Bonded Labour: Prosecution of Offenders, Justice for Victims". The second conference included participation from the U.S. Departments of Justice and Labour. These conferences connected hundreds of experts from capitals with NGOs and international organizations and produced a substantive number of recommendations for further commitments for governments to consider. I will add the draft report from these conferences to my statement.

I will argue that it is now important for countries to understand that they have the means to begin to tackle labor trafficking. Even in the absence of a specific law directly addressing labor trafficking, nearly all countries can begin to address trafficking to some degree through the use of other laws. These other laws typically do not provide all of the necessary tools that a good anti-trafficking law would provide, but no country can convincingly claim that it must wait to prosecute criminals engaged in trafficking in their country until specific anti-trafficking criminal provisions are enacted.

Another challenge is the need to examine how certain provisions operate in practice when viewed through a victim-centered lens in the U.S. and OSCE participating States. One example is the issue

of the length of reflection and recovery periods that has been mentioned above. The appropriate length is not an arbitrary number of months as shown in research by Cathy Zimmerman from the London School of Hygiene and Tropical Medicine. Another example is the common legal requirement and practice of conditioning a victim's receiving assistance on testifying at trial against the traffickers or at least assisting in the investigation. The issue is that such procedures are a form of coercion no matter how well intended. This might be problematic under any circumstance, but for government and law enforcement officials to require this of recently trafficked victims removed from a highly coercive and abusive environment should be questioned as inherently objectionable.

The challenge is to develop more sophisticated approaches that reconcile law enforcement needs with not prolonging a victim's experience with any form of coercion even if it seems necessary to support prosecutions and may seem relatively benign. In essence, this is what a victim-centered approach means and some commonly-accepted practices should be revisited for their compliance with this principle.

#### EFFORTS IN THE U.S AND OSCE PARTICIPATING STATES TO COMBAT TRAFFICKING FOR LABOUR PURPOSES

When looking at how political will to fight trafficking has been generated in the OSCE region over the past decade, U.S. efforts of course have been exemplary.

From an international perspective, U.S. efforts to combat trafficking reflect a broad interagency approach, involving several departments. International policy and funding are coordinated by an inter-departmental chaired by the Director of the State Departments Office to Monitor and Combat Trafficking in Persons. For the oversight of domestic anti-trafficking efforts such a system, with one governmental representative serving as responsible coordinator, has not been established, even if such a model is promoted by the U.S. at the international level, for example within the OSCE framework by recommending countries to appoint national governmental coordinators and develop national action plans. It is of course possible that these increasingly common components of countries' anti-trafficking responses, are not well suited for the U.S. Nevertheless, it would over time be important to evaluate what lessons can be learned from the U.S. approach and to what extent having multiple coordinating task forces involving a range of anti-trafficking actors at federal, State and local levels of government can promote anti-trafficking objectives effectively.

The centerpiece of U.S. anti-trafficking legislation, the Trafficking Victims Protection Act of 2000, provides broad tools to address the range of different forms of trafficking both internationally and domestically. Its criminal provisions, prevention measures and assistance eligibility apply equally to labour trafficking and sex trafficking. The law provides for significant prison sentences for traffickers and the law's assistance provisions have been used to provide hundreds of victims of labour trafficking with a generous range of benefits equivalent to those available to victims of sex trafficking. Temporary residency is, however, tied to a willingness to co-operate with investigators or prosecutors. In short, the U.S.

law provides officials with all basic necessary tools to address labour trafficking.

Regarding the yearly U.S. Trafficking in Persons report, including its rating of countries and threat of financial sanctions, and its effectiveness in advocating for anti-trafficking measures needed to be taken in OSCE countries, I believe it has been of importance. However, we must not underestimate that the driving force for anti-trafficking activity among OSCE participating States, such as passing legislation, has probably been a result of obligations voluntarily embraced by countries, e.g. in connection with the UN Palermo Protocol and more recently the Council of Europe Convention. For some countries, the goal of joining the EU has provided additional impetus. Nevertheless, the Report's public identification of shortcomings and challenges has certainly pushed governments toward action and nourished political awareness and debate on the national level.

While U.S. anti-trafficking actors have focused on both sex trafficking and trafficking for labour exploitation, the governments actions, when looking at the implementation of awareness programs, assistance opportunities (e.g. shelters), trainings, public statements and conferences, seems to have emphasized primarily sex trafficking.

Training projects supported by USAID and the State Department generally have focused on trafficking for the purpose of sexual exploitation. As one law enforcement training manual, supported by USAID funding, states, "Whilst human trafficking is a crime committed for a range of exploitative purposes, this core training material mainly focuses upon the trafficking of women and girls for the purposes of sexual exploitation . . ."

However, in recent years, U.S. efforts have started to pay more international attention to trafficking for labor exploitation. Illustrating this is the most recent TIP Report which highlights and addresses this issue in its assessments in more detail than it has in the past.

The emphasis on sex trafficking seems to have been mirrored in anti-trafficking activities of many OSCE participating States. Few projects in OSCE participating States have addressed trafficking for labor trafficking directly, especially by adult men and women. Research confirms that most assistance efforts are linked to aiding victims of sex trafficking. This research, conducted by the Nexus Institute in South Eastern Europe, indicate that available assistance is geared toward a prototypical trafficking victim—a young, poor, uneducated woman trafficked for sexual exploitation for long periods of time and exposed to extensive and myriad forms of abuse. At the same time, other forms of trafficking are being noted and other profiles of victims are being identified. But the assistance frameworks have not been set up to respond to these other victims. A very specific example is shelters. Most victims of a form of trafficking other than sex trafficking are not eligible and not suitable for accommodation at most shelters for trafficking victims and typically there are not housing alternatives available for these victims.

Thus, it is possible to observe large gaps in the availability of effective assistance for victims of labor trafficking. Looking specifi-

cally at responses directed at labor trafficking, given the lack of systematic anti-labor trafficking activities and data collection to document the phenomenon, it is therefore impossible to comment on the issue of overall effectiveness of efforts to reduce labor trafficking.

Further, on the project level, a meaningful analysis of effectiveness is hindered because programs, regardless of the nature of the trafficking project, almost never include independent components by independent expert evaluators. Consequently, it is impossible to evaluate and comment upon the issue of effectiveness in an informed and meaningful way. This points to the need for donor governments and others to integrate into their programs independent evaluations to review the impact of major anti-trafficking projects. It is very difficult to determine best practices or next steps without knowing whether what is already being done has been effective.

Internal evaluations by the project contractor itself or review by the agency sponsoring the projects are not enough. They are by definition biased and cannot provide a long term or global evaluation of best practices or lessons learned for reshaping strategies or policies. An objective independent evaluation is needed for every larger project and such evaluations need to be a fully resourced element of these projects.

Another challenge is sustainability. How can the good works of projects be continued beyond the funding cycle of a project? This is a concern regardless of whether a project is addressing sex trafficking or labor trafficking or both. Failure to adequately address the challenge of sustainability hinders the prospects for long-term success of our efforts against human trafficking. The challenge of sustainability is demonstrated, for example, where a training program was funded to develop a curriculum for police drafted by police and NGOs together that was intended to be integrated into existing curricula of the countries' police academies throughout the region. But upon completion of the curriculum, no funds were provided to permit conducting and institutionalizing the training within the police academies.

#### IDENTIFICATION OF LABOUR TRAFFICKING CASES

Compared to the U.S., many individual OSCE participating States have had relatively few prosecutions for trafficking for forced labor. On the other hand, neither U.S. nor other OSCE participating States have so far elevated the risk of being prosecuted for trafficking for labor exploitation to a level that is sufficiently high to serve prevention objectives as deterrence.

A concerted effort to identify labor trafficking cases will be needed but will not alone ensure success. As we know, a primary criticism that has been raised regarding U.S. efforts is that it has not led to the level of identification of cases and victims of trafficking within the United States as might have been anticipated, especially given the official figures that the government promulgates of 14,500–17,500 new victims annually in the United States. The reasons for this discrepancy have not been clearly ascertained, however, it is probably a combination of underestimating the difficulties of identifying victims and at least some identification methods utilized that are not properly targeted and implemented.

Pro-active investigations involving countries of origin, transit and destination are needed for effective prosecutions. Trafficking for labor exploitation has not received as much attention in the context of organizing multi-country cooperative law enforcement operations among OSCE participating States. Most of the examples of successful multi-country law enforcement operations have addressed sex trafficking.

We also need to understand why so few victims are identified by our authorities and why so few come forward. But the problem is not only that law enforcement, labour inspectors and other officials have to be trained and get more resources for identification work. With victims for labour exploitation we also face the issue of lack of self-identification. It seems that desperate situations and the sense of hopelessness give few alternatives but to accept so called contracts more or less with knowledge of their exploitative character.

Related to successful law enforcement is the issue of victim safety. Research has shown that safety concerns are one of the paramount issues with victims. Multi-jurisdictional cooperation for victim protection needs to be strengthened. Victims need to be safe and feel safe to cooperate with prosecutions. It is unsatisfactory to respond as though the threat to victims and their families exists only in the country of destination. We must find ways to encourage countries to cooperate on this.

OSCE-supported research shows that OSCE participating States face challenges not only in terms of increasing effectiveness in law enforcement against labor trafficking but also in terms of conducting law enforcement utilizing a victim-centered approach. This OSCE background research found that:

- Victims are requested to become involved in criminal proceedings very early and not allowed time to reflect on the consequences of their involvement (e.g. threat to safety, possibility of re-trauma etc.).
- Victims tend to be treated as violators of immigration law rather than as victims of trafficking. They are not identified as victims by the State agency with whom they first come into contact so they are not referred for assistance or are referred to immigration services who take steps only in relation to immigration status e.g. deportation without consideration given to their exploitative situation.
- Temporary residence permits are not available or are only conditional on co-operation in legal proceedings and not on the victim's needs for protection or assistance.
- Protective measures are not available or are insufficient for victims of trafficking for labor exploitation or they are perceived not to have suffered a sufficient level of abuse and endangerment to qualify for assistance.

#### FURTHER MEASURES THAT SHOULD BE TAKEN IN THE OSCE REGION

By today, most countries in our region have identified cases of labour exploitation in different sectors of their economies, not only in classical low wage work such as agriculture, domestic work and construction, but exploitation exist even in the public sector. The

increased use of subcontractors is bringing more anonymous employers and employees, and less transparency to de facto working conditions. Elements that may be missing in national legislation include provisions addressing corporate accountability and contractor accountability for the complicity of subcontractors. In my opinion, it can be only rational to include the new organizing of work into normal labour regulation and legislate responsibility for labour conditions in the whole supply chain, including subcontractors.

We have to create environments which do not foster or make it easy to abuse powers against people in vulnerable situations. It means not giving up on the idea that our region is a region for respecting human rights and human dignity. It means not giving up on our social conscience and it means an openness to search for solutions on migration and border control that are not abusive to these principals. It is clear to me that irregular migration cannot be stemmed by not protecting people from traffickers or by not providing victims assistance and rehabilitation. It is also clear that by not addressing the issues that pose migrants, legal or illegal, refugees or even foreign students at risk for trafficking labour exploitation, we open the field for criminal activities of cruelty against humans beyond our imagination.

However, I want to point out that it always also is a moral issue to cut the demand for exploitation. But this ethical code of non exploitation is created only in an environment where political decision makers pave the way, and show that everything possible is being done to prevent this crime.

What specific measures could then be taken in the OSCE region to prevent labour exploitation? Where can we identify a need for new commitments?

First, we need to recognize that labour exploitation is linked to employment issues in general. The new dynamics of international production, subcontractors and more mobile labour requires adjusting of labour protection regulations to these circumstances. Special attention has to be given to improve the general working conditions in sectors where we know exploitation occurs.

Many studies show that certain policy practices, such as linking visas or work permits to a single employer, including the employer having the sole responsibility for extension and renewal and the worker not having a possibility to change employer, easily leads to a situation where the worker either stays with an abusive employer or is likely to face deportation. From the point of addressing trafficking, it cannot be unreasonable to look for new practises concerning visa, labour permits and residency regulations so as not to create situations where a migrant is so at risk and so alone with abuse.

Other labour practices which could reduce vulnerability include an obligation to provide written contracts when requested by the worker, legislation on working time protection and a right to basic health and education services regardless of immigration status.

When it comes to victim protection we have to provide him or her tools for empowerment, to get back in charge of his or her life, his or her freedom. Victims should be eligible for work permits during their rehabilitation. When exploitation has been grave, consider-

ation should be given to issuing permanent residence and work permits to victims enabling long term integration.

For prosecutions to be successful it is necessary that law enforcement officials are trained to identify victims, and that prosecutors and also judges are trained to understand the practices of exploitation of different forms and changing patterns of trafficking in human beings and that trafficking investigations are prioritized.

For the criminal the kind of exploitation is secondary, the victim is a commodity sold for whatever purpose there is a market. Multiple exploitations are common. It is the economics of this crime that keeps traffickers going. Therefore, participating States have to put emphasis into getting the profits of trafficking and related crime support services confiscated.

From the international perspective it is evident that the level of international police and legal co-operation, and the capabilities to use mutual legal assistance tools, affect the effectiveness of law enforcement and prosecutorial responses.

And finally, addressing official corruption must go hand-in-hand with addressing trafficking.

#### ADEQUACY OF RESOURCES DEDICATED TO IDENTIFY AND SUPPORT VICTIMS OF TRAFFICKING FOR FORCED LABOR

In 2006, the U.S. Government obligated approximately \$74 million to 154 international anti-trafficking projects in 70 countries and \$28.5 million to 70 domestic anti-trafficking projects worldwide. Five percent of projects are identified by the State Department as directly labour trafficking projects. According to the State Department, the majority of projects worldwide (86%) are categorized as having components that deal both with trafficking for the purpose of forced labor and sexual exploitation.

In OSCE participating States, U.S. federal agencies have supported many projects, especially in South East Europe countries and increasingly in Eurasia. Twenty-two percent of total projects are identified by the U.S. as spent in countries of "Europe and Eurasia" in 2006. Russia and Bulgaria are among the top five countries with the most projects supported by U.S. funds.

The question of adequacy of resources spent generally has at one point been answered by the U.S. State Department in the following way: "The 2006 Trafficking in Persons Report issued by the Department of State's Office to Monitor and Combat Trafficking in Persons noted that there were over 1700 more TIP-related convictions around the world in 2005 than in 2004, and in 2005 41 countries enacted new or amended legislation outlawing TIP. Thousands of survivors have received services from NGOs, both in the United States and abroad."

However, this answer is of limited value in aiding our understanding of the adequacy and effectiveness of resources utilized against labor trafficking, since it is not disaggregated by form of trafficking. Also, the ultimate yardstick should be the impact in reducing labor trafficking. Since there is no evidence or signs yet of diminished labor trafficking, it is not possible to make a finding about the adequacy or effectiveness of current funding.

A second key point is that no reasonable assessment is possible of whether or not adequate funding has been dedicated to any par-

ticular anti-trafficking effort because there is so little independent evaluation about what has been done and the connection between activities funded and results. For example, the statement that “thousands of survivors have received services . . .” does not measure the quality or adequacy or appropriateness of those services received. In addition, the point made about projects that end funding streams that should be long-term commitments (e.g. not funding implementation in police academies of finalized and agreed-upon curricula) would seem to suggest that funding is either not adequate or could be better applied.

The U.S. General Accountability Office (GAO), in a recently released report, has pointed out some of these challenges and it inter alia found deficiencies in U.S. development of information needed to inform its anti-trafficking decisions, as well as identifying monitoring and evaluation of U.S. projects as critical. It has requested U.S. government agencies to strengthen its evaluation of projects and impact.

Since observation appears to lead to the conclusion that most funding is dedicated to sex trafficking, primarily for general awareness and identification (through training and awareness programs), and assistance (mostly connected with centralized shelters dedicated to sex trafficking victims and return of those individuals), then the resources dedicated to identify and support victims of trafficking for labor exploitation is inadequate.

As noted above, research has determined that trafficking identification and assistance eligibility and treatment has been designed for a prototypical trafficking victim—a young, poor, uneducated woman trafficked for sexual exploitation for long periods of time and exposed to extensive and myriad forms of abuse. Because many victims of trafficking in OSCE participating States do not fit this description, it follows that the resources being spent are not addressing a large segment of victims—men, women and children trafficked for forced labor.

A challenge will be to train and enable those who are in the best position to assist in identifying trafficking for labor exploitation to be able to do that. This includes a range of inspectors, licensing officials, immigration personnel, social service workers, child welfare workers, trade union members, and employees in fields such as construction.

The importance of these actors to understand and recognize labor trafficking is clear. For example, the inability of an adult to provide immigration or identity documents can be caused by a number of things. Have all relevant officials in a country who may ask for the individual to produce immigration or identity documents been trained to know that trafficking in persons may be one of those explanations that must also be examined? Without engaging these professionals, victims of labor trafficking will continue to be misidentified and will not receive the help they need and, depending upon a country’s laws, are entitled to receive.

Most funding has gone to projects in countries that are considered origin or transit countries. So far there has not been a comprehensive strategy of investment to “link” the work of destination countries for example in the EU with origin and transit countries efforts in a more systematic way.



The U.S. has funded a number of projects to reduce vulnerability and risks of “potential victims.” A recent USAID-sponsored study on the intersection between domestic violence and human trafficking found that very little useful data is collected and few concrete facts are known to inform policy-makers about the relationship of root causes and contributing factors to human trafficking. This will directly impact the effectiveness of prevention projects.

We will not be able to effectively fight against labor trafficking unless we fully back action-based research and analysis that helps transform policy into practice regarding the specific issues presented by labor trafficking.

Finally, there is one segment of labor trafficking that deserves mention as requiring special attention in OSCE participating States. There is much work that still needs to be done regarding child trafficking, both for labor and sex trafficking. Approximately half of all human beings exploited for labor purposes are children. The awful truth is that there is a high demand for exploitation of children both for sex, labor and illegal activities also in the OSCE region, primarily of course because children are cheap and obedient.

Reports tell about a substantial amount of missing children in our region. These children having many times arrived as unaccompanied asylum seekers, are often perceived as smuggled and therefore not provided adequate protection against what we believe are their traffickers. Research shows that these children are likely to be on the way to be exploited in destination countries in domestic servitude or in the sex-trade. Experience shows that unaccompanied children usually disappear within two days after having been brought into so called protection. Recent experiences in countries, where compulsory child protection measures have been taken in order to protect unaccompanied children, have shown positive results.

We need to take a look at how to invest in responses to child trafficking in more effective ways. Children need specialized care. Children are not properly co-mingled in shelters with adult victims of sex trafficking but there are often no assistance alternatives. The risk of re-trafficking remains a dire problem. There is a need to acquire data with greater detail and disaggregated that is child-specific (i.e. not just their age) so that there is the factual basis to better understand and respond to child trafficking.

#### CONCLUSION

In conclusion, current efforts against trafficking for labor exploitation still seem to be in their infancy. It is apparent that all of the challenges that exist in responding effectively to sex trafficking also exist with developing responses to labor trafficking. Prevention, training, awareness, assistance, and criminal justice responses tailored to the differing requirements of labor trafficking are all needed. Unfortunately, it can be anticipated that the challenges that have been faced in creating these responses for sex trafficking may be increased in the context of labor trafficking as it may not garner committed political will without more effort and may become embroiled in confusion with issues involving economic migration in the minds of public officials. For overcoming this, po-

litical leadership and political will, to find new solutions to address vulnerabilities and decrease demand is very much needed.

Concerning the important question about the adequacy of resources dedicated to identify victims of labor trafficking compared to those of sex trafficking, I want to stress, that even if it is clear that too few resources are allocated fighting trafficking for labour purposes, I cannot advocate to solve this by any shift of resources between different forms of trafficking in persons. Better identification of victims still is the main challenge. This is true for labor trafficking but also for sex trafficking and trafficking in children. Experience shows that the more resources there are to investigate, the more you find. The correlation tells about the possibilities to do so much more.

Finally, I would like to thank you for your attention and thank the Commission for holding this important hearing.

**PREPARED STATEMENT OF ROGER PLANT, HEAD, SPECIAL ACTION PROGRAMME TO COMBAT FORCED LABOUR, INTERNATIONAL LABOR ORGANISATION**

Distinguished members of Congress and the Administration,

I am glad and honoured to testify at today's hearing, on a subject close to the ILO's heart. I understand that the purpose of the hearing is to examine the scope and efficacy of OSCE and U.S. efforts on this subject; to assess the effectiveness of legal anti-trafficking instruments in combating forced labour in selected member states, and the adequacy of resources dedicated to identifying the victims of trafficking for forced labour, as compared with those directed at sex trafficking. Witnesses have also been invited to suggest additional measures that OSCE states or the U.S. Government to better address trafficking and the underlying factors that make people vulnerable to it.

These are several key questions on a fundamental human and labour rights concern which—though the knowledge base is still weak—is increasingly arousing the world's attention. As the questions merit a detailed response, I am adding this written statement to my verbal testimony. I shall begin with a review of the ILO approaches to combating forced labour. I shall end with some comments on our cooperation with both the OSCE and the US Government, and what we see as the main priorities in order to use their resources as effectively as possible.

**ILO APPROACHES TO TRAFFICKING FOR FORCED LABOUR**

The ILO promotes the eradication and prevention of forced labour, as part of its broader efforts to promote the fundamental principles and rights of work recognized in its 1998 Declaration on the subject (freedom of association and the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation). A Special Action Programme to Combat Forced Labour (SAP-FL) has been active for almost six years within this programme to promote core labour standards.

Many of SAP-FL's activities have been carried out within the OSCE region, responding to demand from both developing and industrialized countries. It has given particular attention to trafficking for forced labour purposes. It has carried out qualitative research and surveys, and is now assisting a number of countries to develop more quantitative assessments of forced labour and trafficking. This is considered essential, in addition to adequate laws and policy coordination, in order to develop an adequate policy response. Training materials have been prepared for different actors, including legislators and law enforcement. More targeted materials are currently being prepared for, among others, labour inspectors, judges and prosecutors, trade unions, and employers' organizations. Operational projects are also being undertaken—in Moldova and Ukraine, in the Caucasus, and most recently in Tajikistan—in particular bringing labour institutions together with criminal law enforcement to develop an integrated response to trafficking for forced labour, and also focusing on preventive strategies through

local employment creation and improved migration management. Employers's organizations and trade unions have also been harnessed to these activities.

Some lessons of experience to date can be summarised as follows.

#### Research and surveys

Good research, founded wherever possible on specific case studies, is essential. SAP-FL has issued a series of country case studies on forced labour and trafficking in OSCE countries, so far covering Germany, Russia, France (with a specific focus on Chinese irregular migrants), and Portugal. The most recent of these, prepared together with the Portuguese Ministry of Labour, was distributed this week at an EU conference on trafficking, held in Oporto this week under the Portuguese presidency. Other completed research covers Chinese migrants in Italy and the United Kingdom. An ongoing research project covers Kazakhstan, Kyrgyzstan and Uzbekistan. This assesses secondary data on forced labour incidence in these countries, and the current national and international responses. Its preliminary results suggest that forced labour linked to trafficking is quite widespread in these countries the response however tends to focus very narrowly on sex trafficking, even though the available evidence suggests that the majority of trafficking cases are for labour exploitation.

Following the global and regional estimates on forced labour and trafficking, several OSCE countries are now being included in a new pilot programme to develop national estimates. This is a complex exercise, with so little official data available; the approach has varied in accordance with the main forms of forced labour believed to exist in the country concerned, and available statistical expertise. In Moldova, the ILO is cooperating with National Bureau of Statistics to incorporate forced labour and trafficking in its household survey on labour migration, attached to the broader Labour Force Survey. In Georgia, where a recent National Action Plan against trafficking calls specifically for better quantitative surveys, we are working with the Ministry of Economic Development's Department of Statistics (DS) to address forced labour and trafficking in a labour migration module attached to the next Labour Force Survey. A similar approach is now being discussed in Ukraine in the context of an EU supported project.

#### Training and capacity building

Many of the OSCE countries, as either source or destination countries or a mixture of both, now have legislation or national action plans against trafficking which include trafficking for forced labour. The ILO has sought to ensure that Ministries of Labour and other key labour actors are involved in the drafting of legislation, the preparation of national action plans (NAPs) and their subsequent implementation. As a first stage, some key training materials have been prepared. A guidance document on Human trafficking and forced labour exploitation: guidance for legislation and law enforcement has been published in Russian, and widely disseminated through the Russian-speaking countries of the region. A further training manual on Trafficking for forced labour: How to

monitor the recruitment of migrant workers has been yet more widely disseminated in English, Czech, German, Polish, Romanian, Russian and Rumanian). As a sign of strong demand for this publication, the Czech Ministry of Interior requested ILO permission to issue a version in the Czech language.

An important part of this is clarifying concepts. For many of the OSCE countries the concept of forced labour has been little understood, let alone the further issue of trafficking for forced labour. The ILO has estimated an absolute minimum of 12.3 million persons in forced labour today, over 2.4 million of these as a result of human trafficking. For the ILO supervisory bodies, forced commercial sexual exploitation has been considered a form of forced labour. Thus victims of sex trafficking have therefore been included in our figure of 12.3 million . Of trafficked persons, we estimate that some 43 per cent are trafficked into forced labour for commercial sexual exploitation, while approximately one third are trafficked for other forms of forced labour exploitation. The remainder are trafficked for mixed or undetermined reasons.

For the purposes of this estimate, the ILO took the position that the offence of trafficking has the three elements of deceptive or coercive recruitment, movement (though not necessarily across international borders), and forced labour exploitation at the place of destination. For example bonded labourers in South Asia, who had not been moved from their places of origin through deceptive or coercive recruitment practices, were considered to be in situations of forced labour but not victims of trafficking.

Others however have considered that movement is not a necessary criterion for identifying a trafficking victim. The ILO accepts that there will be different views on the best conceptual and legal entry points for tackling such coercive practices today, between forced labour, slavery and slavery-like practices, and trafficking for forced labour exploitation. The most important thing is that there be strong laws against coercive exploitation of human beings, backed by vigorous law enforcement, and also strong measures for the protection and rehabilitation of victims

A more serious point is how to apply the law, when law enforcement may find it difficult to identify and capture trafficking for forced labour, when there are very few prosecutions and convictions and judges have little precedent to which to refer. Moreover it is common wisdom that there is a continuum from the criminal offence of forced labour, through to other forms of labour exploitation which do not involve criminal coercion, and through to decent work conditions safeguarded by national law and international standards. All of this requires clear guidance to labour inspectors, police and prosecutors as how to identify the forced labour practices, many of which occur outside recognized workplaces. The above-mentioned ILO guidance manuals set out the various options, between criminal, labour and also civil law for securing penalties for offenders and compensation for victims.

A further challenge is to help countries actually implement policies and action plans against forced labour and trafficking. Since early this year, EU funding has enabled SAP-FL to develop new projects in several OSCE countries. One project addresses elimination of human trafficking from Moldova and Ukraine through

labour market bases measures. Addressing gaps in the implementation of current NAPs against trafficking, it seeks to enhance labour market information systems in the public service, to train labour inspectors and other Government authorities to better monitor private employment agencies, to improve vocational training curricula and promote entrepreneurship among returned victims of trafficking, as well as the data gathering referred to above.

In Ukraine—from where there is extensive emigration of an estimated two million persons, both west to Europe and eastwards to Russia—the NAP adequately covers trafficking for forced labour. The project is now providing capacity building for Government officials and other partners in western Ukraine. Under the EU project there is insufficient funding to cover those regions of eastern Ukraine from which there is sizeable irregular migration and trafficking to Russia. In Moldova, the project is working to incorporate labour concerns in the draft NAP, soon to be adopted. It is also using the above-mentioned materials to train Ministry of Labour officials responsible for licensing and monitoring of private employment agencies.

A further project is being implemented in Armenia, Azerbaijan and Georgia, together with the OSCE and International Centre for Migration Policy Development (ICMPD) as international partners. While seeking increased prosecutions for trafficking offences, including abusive recruitment practices, it also seeks to raise migrants' awareness of legal channels of migration.

We have also tried to stimulate more cooperation between the sender and destination countries of trafficked persons in Europe, again with a particular focus on labour institutions, but also bringing these together with police and criminal prosecutors, as well as business and trade union partners from the participating countries. A project was implemented between 2004–6 in seven countries of the OSCE region (Germany, Moldova, Poland, Portugal, Romania, Ukraine and the UK). With organizations such as EUROPOL and the International Association of Labour Inspection (IALI) involved in several of the activities, this has involved the sharing of much relevant expertise, and identified the main needs for follow-up training on the forced labour aspects. An expert meeting with the involvement of Chief Labour Inspectors from Europe is planned for next month, to validate training materials and make sure they meet the needs of law enforcement on the ground.

#### Case law on forced labour and trafficking

Though there have been few prosecutions to date, the first cases on trafficking for forced labour are now coming before the courts. As the impetus for this grows, judges will need to know how to grapple with the issues. A collection of case law is now being developed, examining how judges in different jurisdictions have interpreted such concepts as force, menace or vulnerability, and also the extent to which the ILO's own forced labour Conventions have been used in judgments. The training materials, covering both common and civil law countries, are to be tested at expert meetings later this year.

### Involving employers' and workers' organizations

On an issue like labour trafficking, it is essential to galvanise business and trade union organizations to action. Employers need to sensitize their members, to regulate their own conduct, to be on guard against abusive recruitment practices such as involuntary servitude or debt bondage for contract and migrant workers, particularly when such abuses can penetrate their own business supply chains, Trade unions need to monitor and denounce such practices, to organize those at risk of labour trafficking and promote cooperation between unions in sender and destination countries, also to provide direct support to those released from such trafficking,

We began some years ago with a project covering Russia and some Central Asian Republics, through which trade unions from several countries combined their efforts, organizing migrant workers and assisting them to send remittances back to communities and families of origin, A new country for this approach is Kazakhstan, where a start-up meeting was held in August this year to assist trade union capacity and meet the need for further training on means to assist migrant workers. More generally, the International Trade Union

Confederation has been assisted to develop a Workers' Alliance against Forced Labour and Trafficking. This is to be refined at a meeting of European trade union leaders and global federations later this month, before being presented to the ITUC general council in December.

In some countries, employers' organizations have now begun to address these concerns more systematically. In Russia, in cooperation with the European Development Bank for Reconstruction and Development, EBRD (which, like the IFC and other financial institutions now seeks to develop safeguards on core labour standards including forced labour for its private sector lending), there has been a particular focus on the forced labour affecting migrants from Central Asia in the construction industry. A survey has been carried out among employers on the demand for migrant labour, the treatment of migrants and the feasibility of self-regulation through an industry-wide code of conduct or similar measure.

### COOPERATION WITH THE US GOVERNMENT AND THE OSCE

Our programme has been able to work closely with the present and past OSCE Special Representatives on trafficking, and to appreciate their strong commitment to combating trafficking for forced labour. I was invited to address the two high-level OSCE conferences on trafficking for forced and bonded labour exploitation, In november 2005 and 2006 respectively, which did so much to draw the attention of member states to these problems. Just last week, on 2 October in Warsaw, member states reaffirmed their commitment to combat the forced labour dimensions of trafficking. Moreover, the ILO's cooperation with the OSCE against forced labour and trafficking also involves practical action through the field projects in the Caucasus mentioned above. Our programme has also benefited from close cooperation and sharing of experience with the Government of the United States. In recent years I have been invited to separate meetings or conferences of the Depart-

ments of Justice, Labour and State, and have been able to appreciate the coordinated efforts of so many departments and agencies. At all of these events there was a clear concern to focus more on the forced labour dimensions of trafficking. Last year I also testified at a hearing of the U.S. Congressional Executive Commission on China. This was an important opportunity to share with Congress the impact of the ILO's engagement with China on forced labour, including: cooperation with several Government agencies to promote the ratification of the ILO's two forced labour Conventions; a project on forced labour and trafficking, supported by the US Department of State; and capacity building for Chinese employers' organizations on the prevention of forced labour and trafficking in their enterprises and supply chains.

The US Department of State also funds a project on forced labour and trafficking in Jordan, which seeks to enhance law enforcement capacity and inter-Ministerial cooperation. And the US Department of Labour supports a number of ILO projects to prevent child trafficking in developing countries.

The Trafficking Victims Protection Reauthorization Act of 2005 indicated the sense of Congress that both the Department of State and the Department of Labour should give more attention to forced labour. The former's Office to Monitor and Combat Trafficking should intensify its focus in countries where forced labour continues to be a serious human rights concern. And the Department of Labour was to carry out additional activities to monitor and combat forced labour and child labour in foreign countries.

The increased attention to forced labour is clear from the US Government's annual Trafficking in Persons Report released in June this year. It contains thematic assessments of the forms and impact of human trafficking for forced labour, including labour trafficking in general, bonded labour, involuntary servitude, debt bondage and involuntary servitude among guest workers, and forced child labour. Among the topics of special interest are sponsorship laws and forced labour, the responsibilities of source governments with regard to the trafficking of migrant labourers, and trafficking for involuntary domestic servitude. Moreover several of the countries placed in this report's Tier 3, particularly in the Gulf countries, are there specifically because the conditions of recruitment and employment for overseas contract workers are seen as amounting to trafficking for forced labour.

In concluding, let me say that this is a highly appropriate time to be addressing such human and labour rights concerns, both more specifically in anti-trafficking programmes, and more generally in our combined efforts to promote core labour standards in all development. These are critical aspects of labour market governance.

Just last month, an ILO mission came to Washington to meet with a wide group of policy makers and their advisers, explaining the positive impact of its past work on core labour standards in selected countries, much of this with US support. Today we are addressing the specific crime of trafficking for forced labour, the ways in which it can be placed higher on policy agendas, that the offenders can be prosecuted more effectively, the victims or those at-risk



protected, the vulnerable given the chance of a better livelihood, and the structural factors behind these problems addressed.

I believe that a start has been made, with the very strong commitment of the OSCE, but that this is only a beginning. I have tried today to provide some examples of the practical measures that the ILO is taking, but most of these are pilot initiatives that need to be replicated on a far larger scale. We hope that, together with partners like the US Government, the ILO can continue to use its tripartite structure to address these urgent human and labour rights issues. They are the very antithesis of the decent work agenda for which the ILO stands, and tackling such problems head on as a first step is a very concrete way of moving this agenda forward.

Thank you for your attention.

**PREPARED STATEMENT OF KEVIN BALES, PRESIDENT, FREE  
THE SLAVES**

Free the Slaves and our sister-organization in Europe, Anti-Slavery International welcome this hearing on forced labor trafficking. Events organised at both national and international levels are often focussed on trafficking for sexual exploitation, frequently justified on the grounds that there is more experience in this area. This tends to reinforce the attention put on trafficking for sexual exploitation rather than labor exploitation. The OSCE has sought to challenge this by holding conferences that focus solely on trafficking for forced labor since last year. Free the Slaves welcomes additional attention on slavery in all its forms, including trafficking for both labor and sexual exploitation.

Despite the existence of international law outlawing trafficking, forced labor and all forms of slavery, research by Free the Slaves' sister-organization Anti-Slavery International shows that cases of trafficking for forced labor and labor exploitation occur at least in the UK, Ireland, Portugal and the Czech Republic. We have no reason to believe that these countries would be exceptions in Europe; these situations are likely to be just as common in other EU countries.

There is a long list of industries and sectors in which cases of trafficking for forced labor have been identified. Despite the media focusing mostly on trafficking for prostitution we found evidence of exploitation in other industries, too. The main ones are agriculture, construction, domestic work and hospitality, yet we came across many others, ranging from nail parlours to forced begging.

Migrant workers are a group at risk of trafficking for forced labor. Due to their often insecure and vulnerable situation, they are an easy target for exploiters and find themselves compelled to perform work in conditions amounting to slavery.

**FINDINGS**

There is an inconsistent approach to trafficking for forced labor across the OSCE region. While some countries strive to implement policies that address forced labor (for example, Italy, Poland, Czech Republic), other governments within the OSCE do not consider it a significant problem. Assessments of trafficking for forced labor are generally poor or nonexistent, but then this absence or lack of information is used as an indicator that there cannot be a serious problem of trafficking for forced labor.

This inconsistent approach and lack of emphasis is also a factor in the absence or very limited provision of protection and support services available to persons trafficked for labor exploitation. There is lack of dialogue about the specific and different needs for victims of forced labor, including gender specific assistance and new challenges arising. For example, while the UK Government funds the provision of specialised support to women trafficked into prostitution, no specialised support (either government funded or provided by other bodies) is available to those trafficked into forced labor.

While many NGOs agree that while identification of trafficking victims remains a problem, the problem of identifying the victims of trafficking for forced labor is more acute. Those trafficked into

forced labor are often unlikely to consider themselves “victims” or identify themselves as having been trafficked. There is often no incentive for them to come forward to the authorities as support services are unlikely to be available and, if they do not have the correct papers to live and work in a country, they will be treated as illegal migrants and face swift deportation. In terms of enforcement, in the situation of trafficking for forced labor there is still primarily a focus on the immigration status of the migrant rather than the criminal nature of the forced labor in which they have been exploited. For example, in many OSCE states an irregular migrant who has been trafficked into forced labor will be unable to stay in the country to pursue a claim against the people who have trafficked and exploited them.

In some countries, restrictive immigration controls can actually make migrant workers more vulnerable to trafficking and forced labor. For example, in the UK, the Government proposes to change an immigration rule affecting migrant domestic workers. The changes would mean migrant domestic workers could only get a six month non-renewable visa and would not be allowed to change employers even if they are subject to abusive practices. All the available evidence in the UK leaves little doubt that that this will increase the number of individuals who are subjected to exploitation and forced labor as it ties domestic workers to one employer and increases the coercive power of that employer to exploit them.

In view of the above it is not surprising that the numbers of prosecutions and convictions for trafficking for forced labor do not compare in any respect to those for trafficked for sexual exploitation. For example, in the UK, trafficking for sexual exploitation and trafficking for labor exploitation where both made criminal offences in 2004 with a maximum penalty of 14 years in prison. By July 2007, there had been 62 successful convictions for trafficking for sexual exploitation with more than 50 other cases still pending. There had not been a single successful prosecution for trafficking for forced labor.

#### FACTORS SUPPORTING TRAFFICKING INTO FORCED LABOR

We identified four main factors affecting the exploitation of migrant workers that are at the same time underlying causes why migrant workers end up in forced labor as a result of trafficking. The most important common factor, or rather a set of factors, to such cases are those of isolation, lack of knowledge of rights and multiple dependency of migrant workers. In general, migrant workers often lack knowledge of their rights. They feel responsible for making the wrong choice and are not aware of the options they have under national and international law. Moreover, migrant workers are often selected by dishonest employment agents for their lack of knowledge of the local language in the country of destination and are discouraged from learning it. A special concern is exploitation for domestic work in the private sphere that makes intervention and discovery from outside even more difficult. However, in other industries, for example forestry in the Czech Republic, employers take great efforts to hide migrant workers away in remote locations and to prevent contact with the local population.

The second factor that has an important impact is the restrictive nature and complexity of the labor and immigration regulations in destination countries. Restrictive migration regulations force more people to look for alternative ways to carry out their migration, using the services of agents or intermediaries (who sometimes are involved in the trafficking chain) for arrangements, assistance with documents and finding work. These arrangements leave migrants vulnerable to exploitation due to their dependency and high debts. The complexity of regulation in many countries explains why it is not uncommon for migrants, who would be permitted to reside and work somewhere legally, to be exploited on the basis of their belief that they are not meeting immigration requirements. Under those circumstances they can be threatened with exposure to the authorities, whereas they would in fact be safe from deportation.

In a large number of the cases reported a third important factor involves threats of violence made to the migrant worker or their family at home. These threats are underlined partly by myths planted by exploitative employers and partly by the knowledge of what happened to fellow workers. In addition to debt bonds and violence, additional strategies used by exploitative agents/employers are to withhold documentation and pay or to create multiple dependency, for example by providing accommodation at extortionate rates. In many cases there is a combination of means of coercion present.

The fourth major factor is more structural: the increasing demand for cheap labor in many of the industries and service sectors in the European Union. Even in cases where employers pay the legal minimum wage, the increasingly widespread practice of subcontracting creates opportunities for agents to withhold the earnings of migrant workers. Combined with the urgent need in many countries outside the EU to search for a better life, often simply to provide additional income for basic needs for their families, this provides the circumstances in which people take risks in their migration strategies.

#### RECOMMENDATIONS

Policy needs to be developed at the European level to counteract the trafficking of people for forced labor. The regulatory framework of the European Union provides a mechanism for cross-border cooperation that is superior to most international situations of human trafficking. Further a relatively high level of public awareness and commitment create a context in which positive change could rapidly be achieved. Our recommendations are aimed at fostering that positive change; they are the OSCE should support and states should act:

1. To ratify and fully implement the Palermo Protocol, the Council of Europe Convention On Action Against Trafficking in Human Beings, (countries that are not members of the Council of Europe can become the Parties to the Convention) and the UN Convention of the Protection of the Rights of All Migrant Workers and their Families.

2. To undertake detailed research into trafficking for forced labor in their respective countries and to provide training to all appropriate people who may come into contact with people trafficked into

forced labor or migrant workers at risk of being trafficked. These groups should include law enforcement, immigration officials, NGOs, social services, unions, labor inspectors, labor providers, medical personnel, and the general public.

3. To make migrants more aware of their rights in the countries of destination and where they can turn to for assistance. States should also reinforce labor inspection and other regulatory frameworks and encourage trade unions and employers to play a full role in ensuring that all appropriate laws are properly enforced.

4. To establish independent bodies, like Special Rapporteurs or Labor Trafficking Ombudspersons, who can monitor all trafficking in human beings in their respective countries and report on Government's implementation of policy.

5. To review existing migration policy to ensure that there are sufficient regular migration opportunities available, for both skilled and unskilled work and to remove policies that are likely to make migrants more vulnerable to trafficking for forced labor.

6. To develop a social responsibility law (on the model of Portugal), under which any link of the supply chain can be held responsible for forced labor within the chain. Hence the companies and contractors would be responsible for ensuring that there is no exploitation involved on the side of contractors, labor providers or suppliers.

7. To examine the model regional Action Plan adopted and put into force in the Economic Community of West African States (ECOWAS) in 2003. The OSCE countries share with ECOWAS the challenge of addressing human trafficking for labor exploitation across boundaries of culture, language, legal systems, and economic disparity. Relevant provisions of the Action Plan being implanted within the ECOWAS region are:

a. The adoption of legal provisions for the protection of victims of trafficking, and ensure that national legal systems contain measures that offer victims of trafficking for labor exploitation the possibility of obtaining compensation for damage suffered.

b. Ensuring that national laws and administrative practices provide information to victims about the status of relevant criminal and other legal proceedings and an opportunity to voice their views and concerns in a manner not prejudicial to the rights of the defence and that the status of any such proceedings are considered prior to any repatriation of the victim.

c. Adopting legislative or other appropriate measures that permit victims of trafficking for labor exploitation to remain in their territory, temporarily or permanently, in appropriate cases; and shall give appropriate consideration to humanitarian and compassionate factors in the consideration of permitting victims of trafficking for labor exploitation to remain in their territory.

d. Taking responsibility for victims of trafficking for labor exploitation, who are their nationals, or persons with the right of permanent residence in their territory at the time of entry into the territory of the receiving State by facilitating and accepting, with due regard for the safety of such persons, the return of such persons without undue or unreasonable delay.

e. Taking measures that permit the denial of entry into the country and/or the revocation of visas of persons wanted for the commission of crimes related to the trafficking for labor exploitation.

f. Establishing a National Task Force on Trafficking in Persons that will bring together relevant Ministries and Agencies in developing policy and taking action against trafficking in persons, and calling on Inter-Governmental Organizations, Non-Governmental Organizations, and other representatives of civil society, as necessary.

g. Encouraging victims of trafficking for labor exploitation to testify in the investigation and prosecution of cases, by giving due consideration to the safety and security of victims and witnesses at all stages of legal proceedings, permitting them to remain in their territory.

h. At the regional level, establishing a fund for victims of trafficking for labor exploitation. The fund shall be used in particular to provide support to States for the repatriation of victims of trafficking.





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