

U.S. HELSINKI COMMISSION

**Combating Trafficking for Forced Labor Purposes in the OSCE Region
Thursday, October 11, 2007**

Written Testimony, Dr. 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 were 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.