

Trafficking for Forced Labour in Europe

forced labour

Report on a study in the UK, Ireland, the Czech Republic and Portugal

Anti-Slavery International with La Strada Czech Republic, Dublin City University, Migrant Rights Centre Ireland, APAV Portugal, Audrey Guichon and Christien Van den Anker

November 2006

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Executive summary

Despite the existence of international law on trafficking, forced labour and all forms of slavery, our research found cases of trafficking for forced labour and labour exploitation occurring in the UK, Ireland, Portugal and the Czech Republic. As the majority of people trafficked for forced labour is not identified as such and not afforded adequate assistance, their rights are unprotected. Therefore they continually find themselves in vulnerable positions. While the problem of trafficking is enormous the responses in place are insufficient and traffickers continue to profit from such situations.

We have no reason to believe that these countries would be exceptions in Europe. It is likely that such situations are common in other EU countries.

There is a long list of industries and sectors in which cases of trafficking for forced labour have been identified. 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 labour. 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.

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 labour as a result of trafficking. The most important common factor, or rather a set of factors are: isolation, lack of knowledge of rights and multiple dependency of migrant workers. Migrant workers often feel responsible for making a wrong choice and are not aware of the options they have under national and international law. Moreover, they are often selected by crooked employment agents for their lack of knowledge of the local language in the country of destination and are discouraged from learning it. Exploitation for domestic work or care in the private sphere is a special case of concern. In these settings intervention and discovery from outside are even more difficult. However, in other industries, for example forestry in the Czech Republic, employers undertake much effort 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 labour and immigration regulations in destination countries. In practice, there is confusion between actions against unauthorised working (the enforcement of immigration control) and action on behalf of unauthorised workers (the enforcement of labour standards and the protection of fundamental human rights). This is particularly evident in the UK where the Immigration Service has quotas for the deportation of certain nationalities. In specific instances, such as with Chinese nationals trafficked into the UK for forced labour this can run in clear contradiction to law enforcement priorities, where investigation of trafficking enterprises demands building trust with trafficking victims, which the threat of deportation singularly undermines.

Restrictive migration regulations force more people to look for alternative ways to realise their migration project, 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.

The third important factor that plays a role is threat of violence made to the migrant worker or their family at home. Threats are underlined partly by myths planted by exploitative employers and partly by the knowledge of what happened to fellow workers. Next to debt bondage 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 labour in many of the industries and service sectors in the European Union that is partly met through exploited labour force. Even in cases where employers pay the legal minimum wage, the increasingly widespread practice of subcontracting creates opportunities for agents to cream off the earnings of the 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 resources in the family, this provides the circumstances in which people take risks in their migration strategies.

In conclusion, policy needs to be developed at the European level to counteract the trafficking of people for forced labour and exploitation in other industries than prostitution. In this context the report highlights a number of additional policy recommendations which would help to tackle trafficking for forced labour, including:

1. **States need to sign up to the Palermo Protocol¹, the Council of Europe Convention on Action against Trafficking in Human Beings and other relevant instruments, such as the UN Convention on the Protection of Rights of All Migrant Workers and their Families.**
2. **Trafficking for forced labour is a global problem requiring global solutions. The UN High Level Dialogue on International Migration Phase II needs to focus on trafficking for forced labour.**
3. **Trafficking for forced labour must be identified and understood in the context of people's situational vulnerability. The means of arrival in the country of destination is not relevant to their identification as victims of trafficking for forced labour. The situation of exploitation should be the primary determinant and indicator for prompting investigation. It is only by understanding a person's situational vulnerability that the level of freedom of their consent can be properly assessed.**

4. **Trafficking for forced labour needs to be actively targeted by all relevant actors particularly businesses, trade unions and NGOs.**
5. **Temporary or permanent residency status and or access to services should not be dependent upon a survivor participating in criminal proceedings.**
6. **Trafficking for forced labour is in need of further research particularly in terms of its effective treatment by governments nationally and globally.**

Endnotes

¹ Protocol to Prevent, Suppress and Punish Trafficking in Human Beings, Especially Women and Children supplementing the United Nations Convention against Transnational Organised Crime.

Introduction

UN Secretary General Kofi Annan said that criminal groups have wasted no time in embracing today's globalised economy and the sophisticated technology that goes with it. 'But our efforts to combat them have remained, up to now, very fragmented, and our weapons almost obsolete' (Speech at the UN High-Level Signing Conference opening for signature the Convention against Transnational Organised Crime and its Protocols, December 2000).

Trafficking in human beings is one of the most reprehensible violations of human rights occurring in the world today. It is often described as a low-risk – high-profit enterprise. Those who commit the crime of trafficking often go unpunished and enjoy their financial gains. Their victims, on the other hand, very vulnerable people, are frequently abandoned by legal and social systems into a realm of exploitation and abuse.

The ILO estimates that trafficking for forced labour a 15 515 million US dollars business in the industrialised world, a category in of which the EU states fall. The ILO at the same time estimates that at minimum, 2.45 million people are in forced labour worldwide as a result of trafficking. Paradoxically, the number of people identified as trafficked and afforded adequate assistance is worryingly low. The estimates for Europe rarely go above thousands. With regards to people trafficked for other forms of forced labour rather than sexual exploitation, the number is even lower.

As a result of non-identification and non-provision of adequate assistance, the rights of trafficked people are unprotected and therefore they continually find themselves in vulnerable positions. While the problem of trafficking is enormous the responses in place are insufficient and traffickers continually profit from such situations.

Despite having international legal instruments in place today, six years after Kofi Annan's statement, their implementation and responses in practice still remain insufficient in tackling the problem in its breadth and complexity. Hence trafficking continues to be a profitable business.

International law recognises that trafficking covers all forms of labour exploitation; not just sexual exploitation. However, the law enforcement agencies within the EU (and elsewhere) rarely recognise persons trafficked for purposes other than sex work. This problem is partly caused by the fact that to date, many countries do not have the laws in place to prosecute. Lack of information and understanding of the situation also play a role. The EU Council Framework Decision 2002/629/JHA on Combating Trafficking in Human Beings obliged all EU member States to harmonise their domestic criminal legislation on trafficking by 2004. This includes the adoption of a common definition of trafficking consistent with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, supplementing the UN Convention against Transnational Organised Crime. So far, compliance has been patchy and in most cases people trafficked for forced labour and labour exploitation are treated as illegal migrants and returned to their country of origin.

Since May 2005 the Council of Europe Convention on Action against Trafficking in Human Beings provides a new framework for combating trafficking. This Convention is important in that it has the most cutting edge provisions to guarantee minimum standards of protection to trafficked persons. However, the ten ratifications needed for its entry into force have not yet materialised. Signatures include Germany, France, Belgium, Italy, the Netherlands and Portugal. Yet only Romania, Moldova and Austria have ratified².

This report is the result of a two-year study, funded by the European Commission, on trafficking for forced labour in industries other than the sex-industry. The report hopes to assist the development of new policies by the Council of Europe, the EU and the Member States in order to contribute to combating trafficking. It provides information for a more effective policy debate, both from the viewpoint of stopping trafficking and also in assuring the human rights of the trafficked people.

The research was carried out by non-governmental organisations and universities in the UK, Ireland, the Czech Republic and Portugal. A series of field assessments were made in each country through interviews and questionnaires, case studies analysis and a media analysis. The outcomes are reported in more detail in the separate country

reports available from local NGOs (see Appendices 3-6.) on which this report is based.

The report starts out by defining the terms of the research. It then reviews the outcomes in the countries of research, illustrating the four main themes emerged from investigating the following: the industries/sectors; means of coercion and force; nationality and gender; promised work versus actual work; living conditions; exit options; future plans and opportunities.

Despite the similarities and differences between our participating countries, we have discerned issues common to all countries and identified four factors that make it possible for trafficking to happen. These factors are discussed in chapter four. The report concludes with concrete recommendations to improve responses to trafficking in a comprehensive manner.

Endnotes

² As of 7 November 2006.

1. Policy context

Despite recent additions to international standard setting and national policy frameworks on combating trafficking, our four country studies illustrate that migrant workers in Europe are regularly exploited and continually trafficked for forced labour. In order to improve the existing policies and develop additional ones into an effective comprehensive response, we need to find out more details of the context in which this happens and the barriers to effective implementation of existing mechanisms that counteract it.

A focus on trafficking for labour exploitation is strongly emphasised in the European Commission's 2001 strategy paper, which refers specifically to "labour exploitation in conditions akin to slavery"³. The EU Council Framework Decision 2002/629/JHA on Combating Trafficking in Human Beings obliged all EU member States to harmonise their domestic criminal legislation on trafficking by 2004. This included adoption of a common definition of trafficking consistent with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. However, implementation of this directive is patchy. For example, Portugal has not yet transposed the directive and therefore has no specific legal framework concerning trafficking for forced labour, and the provisions to penalise trafficking for sexual exploitation have many difficulties in implementation. In Ireland, the Illegal Immigrants Trafficking Act (2000) actually deals with smuggling⁴. Additional legislation in relation to trafficking is 'in the late stages of drafting', according to a spokesperson from the Department of Justice, Equality and Law Reform. The Czech legislation covers the criminal law aspects of trafficking in a standard way. Nevertheless in the labour law dimension there is large room for improvement. In the UK, 'trafficking for sexual exploitation' was included in the Sexual Offences Act (2003) and trafficking for all forms of labour exploitation was included in the Asylum and Immigration [Treatment of Claimants, etc] Act (2004). However, to date there have been no prosecutions for trafficking for forced labour under this law. In addition there is the Gangmaster's Licensing Act (2006) designed to regulate the supply of labour by gangmasters.⁵

However, law enforcement officers acknowledge that implementation of anti-trafficking strategies still focuses mainly on trafficking for sexual exploitation and that police interventions in cases of suspected trafficking for forced labour are more likely to pursue the policies to clamp down on illegal migration and employment. The haphazard provisions on trafficking for forced labour in European countries perpetuate only incidental prosecution of traffickers and therefore the vulnerability of migrants to their practices. Cross-border collaboration in enforcement is made even more difficult due to these variations in the different jurisdictions. These circumstances need to be urgently addressed.

The Council of Europe Convention on Action against Trafficking in Human Beings (2005) is the latest international provision on developing policy and law in combating trafficking. It provides a new standard for countries to work towards and is the only international law that provides trafficked people with guaranteed minimum standards of protection. These include at least 30 days to remain in the country to receive support, emergency medical assistance, safe housing and legal advice. Through the adoption of the Convention, the Council of Europe demonstrates official recognition of the need for governments to provide protection and support to all trafficked people independent of the industry they work in.

Trafficking for forced labour is a phenomenon that is influenced by decisions in several policy areas. The tendency has been to address the issue of trafficking as a problem of security and immigration. As a result of this, policy-makers and implementing enforcement agencies approach trafficking as a problem of organised immigration crime rather than a serious crime against the human rights of its victims. There are other policy aspects that affect the situation of trafficked people and unwittingly contribute to the profits of traffickers. Somewhat paradoxically migration policies that restrict the employment possibilities of migrant workers are one such example. Added to that, without strong political leadership and commitment to action, the progress will be minimal. This is an essential element not only in development of policies, but also in establishment of institutional arrangements, and the allocation of human and financial resources. History has shown that political leadership has on many occasions served as a catalyst for action.

Despite universal agreement on the definition of trafficking, an important issue is the lack of implementation of existing legal provisions. We will analyse this in more detail in chapter three, which presents our research findings. We want to draw attention here to the importance of monitoring implementation as a task at the national and European level. On a European level the Expert Group on Trafficking in Human Beings has done cutting edge work to safeguard the human rights protection of survivors of trafficking. On a national level there is an example of good practice of such monitoring and evaluation in the Netherlands, which has a National Rapporteur on Trafficking in Human Beings. Establishment of such an institution was recommended by the Hague Ministerial Declaration of 26 April 1997.

A National Rapporteur would monitor implementation of national and international standards and would also report regularly on the latest trends in combating trafficking. The Dutch Rapporteur played an important role in galvanising support from law enforcement agencies in the transition from trafficking as linked to prostitution to the recognition of trafficking in cases of forced labour.⁶ An independent National Rapporteur on Trafficking in Human Beings should be established in all European countries, using the example of the Dutch National Rapporteur's experience.

When researching and designing policies to address trafficking for forced labour it is crucial to examine the relation and connections between migration and trafficking. The category "migrant workers" used throughout this report refers to persons who come from one place and migrate to another place for employment purposes.⁷ Our evidence shows that migrant workers are more at risk of being trafficked as a result of their vulnerable and uncertain position (see chapter three). When deceived and coerced to submit to different work or different working conditions in the place of destination other than those that were previously agreed, they become trafficked. Trafficked or exploited migrant workers may benefit from the measures contained in the Palermo Protocol and Council of Europe Convention but also from other international instruments, applicable to migrant workers yet not specifically about trafficking. None of these documents though can be regarded as more or

less optimal by way of offering an ultimate solution.

The combination of instruments on protection of trafficked persons and instruments on protection of migrant workers should be explored as a possibility to comprehensively address the issue of the "migration-trafficking nexus"⁸. In other words if one increases protection for trafficked persons and for migrant workers the potential for the trafficking of migrant workers will naturally be reduced.

Furthermore, lack of implementation of anti-trafficking instruments is partly caused by different understanding of trafficking in different countries. At the European level there is still lack of recognition of the need for a link between anti-trafficking, human rights and migrants rights' instruments. States should guarantee all migrant workers protection from slavery and forced labour as well as guarantee them basic labour rights regardless of their status. This would help prevent trafficking and forced labour of migrant workers who are in vulnerable situations and already in the receiving countries.

- **States should sign and ratify 1) the Council of Europe Convention on Action against Trafficking in Human Beings and 2) the UN Convention on the Protection of the Rights of All Migrant Workers and their Families.**

Therefore we recommend:

Having sketched out the policy context we will now consider the definitions of the relevant terms provided in these documents and illustrate some of the difficulties surrounding them.

Endnotes

³ *Trafficking in Women: a Comprehensive Strategy*, The European Commission, Justice and Home Affairs, March 2001

⁴ The difference between 'trafficking' and 'smuggling' is explained in Chapter 2.

⁵ Gangmaster Licensing Authority: <http://www.gla.gov.uk/>

⁶ de Jonge van Ellemeet, H. and Smit, M. *Trafficking for exploitation outside the sex industry* in C. van den Anker and J. Doornik (eds) *Trafficking and Women's Rights*. Palgrave, 2006

⁷ In this report this group constitutes foreign nationals who have not been in the receiving country for more than 5 years and had various forms of immigration status.

⁸ Kaye, M. *The Migration-Trafficking Nexus: Combating trafficking through the protection of migrants' human rights*, Anti-Slavery International, London, 2003

2. Definition of terms

This section of the report outlines the definitions of the key terms used in this study. In doing so we aim not just to provide the reader with a clear understanding of what these terms encompass, but also to highlight any potential points of confusion or contradiction in the public discourse.

The fundamental definitional framework for trafficking for forced labour, exploitation and conditions similar to slavery, is provided by UN legal instruments on trafficking and slavery and ILO conventions on forced labour. The concept of trafficking in persons is defined internationally for the first time by the Protocol to Prevent, Suppress and Punish Trafficking in Persons supplementing the UN Convention against Transnational Organised Crime of 2000. Article 3 of the Convention defines trafficking as follows:

‘Trafficking shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.’

This definition was adopted also by the Council of Europe Convention on Action against Trafficking in Human Beings.

The definition and regime of forced labour are covered by ILO Conventions No. 29⁹ and No. 105¹⁰. The term “forced or compulsory labour according to the Convention No. 29 shall mean ‘all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily’ (Article 1(1)).

The most challenging questions that arise from these definitions are: how exploitative does the labour relation have to be in order to be considered a trafficked person and/or person in

forced labour? How severe do the labour conditions have to be in order to be considered a trafficked person and/or person in forced labour? How deceived does a worker have to be in order to be considered a trafficked person and/or person in forced labour?

Certainly the element of coercion is a useful indicator of forced labour. Weissbrodt suggests, referring to the travaux préparatoires of the Palermo Protocol, that coercion exists in “any situation in which the person involved has no real and acceptable alternative but to submit to the abuse involved”¹¹. This is a crucial aspect determining the very situation of the trafficked person, but it also complicates the task of identification. Very often, trafficked people do not see themselves as victims of trafficking; rather they simply see themselves as people who have no other option but to do what is demanded from them.

In general respondents to our research questions, whether service providers, law enforcers or workers, even when clearly describing people in the above terms, failed to grasp that they were describing people in situations of trafficking for forced labour. This was because they presumed that illegal entry was fundamental to trafficking and that, if the workers “agreed” at some point along the line to do the work on offer this meant that they were not in a situation of forced labour. Yet, the ILO and the EU Experts group on Trafficking in Human Beings propose that the main focus in identifying trafficking needs to be on the situation of exploitation, i.e. the forced labour element¹² rather than the movement element. Further as noted above, submission to a situation under threat is a very different thing from free and informed choice.

To help overcome some of these practical confusions the ILO suggests six indicators of forced labour:¹³

- i Threats or actual physical harm to the worker.**
- ii Restriction of movement and confinement, to the workplace or to a limited area.**
- iii Debt bondage: where the worker works to pay off a debt or loan, and is not paid for his**

or her services. The employer may provide food and accommodation at such inflated prices that the worker cannot escape the debt.

- iv Withholding of wages or excessive wage reductions, that violate previously made agreements.**
- v Retention of passports and identity documents, so that the worker cannot leave, or prove his/her identity and status.**
- vi Threat of denunciation to the authorities, where the worker is in an irregular immigration status.**

In practice these are often present in a combination of two or more. We would argue that cases where at least one of the ILO listed indicators is identified should at the very minimum prompt a thorough investigation, and where two or more elements of coercion are identified then the case should be identified as forced labour. Furthermore we would also argue that the case of someone who has had their pay or documents withheld is no less deserving than someone who has been threatened.

At minimum these findings indicate a strong need for governments to undertake concerted sensitisation training for those officials who might come into contact with trafficked persons, so that they recognise trafficking and understand when a situation should prompt more detailed investigation.

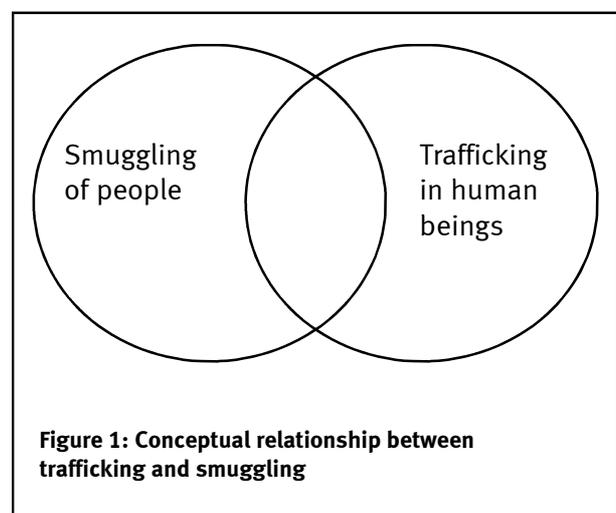
To overcome the problem of non-identification of the majority of trafficked people, the situation of all suspected trafficked people needs to be assessed in the widest sense of vulnerability in order to see whether they are coerced or deceived. The situation of exploitation itself needs to be the core determinant, not the means how the person arrived into such a situation.

The lack of clarity in the public discourse between the concepts of smuggling and trafficking is also problematic. The UN Protocol against Smuggling in Migrants states that smuggling is, “The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a state party of

which the person is not a national or a permanent resident”.

In other words smuggling involves consent of a migrant to be smuggled illegally across the borders. The relationship between the smuggler and the migrant terminates when the point of destination has been reached. Even though smuggling often happens under dangerous and undignified conditions, it is a contract with consent. Trafficking involves ongoing exploitation and even if the person might have consented at some stage, this consent is meaningless, because of the deception and coercion involved. Regardless of the legality of the route, exploitation occurs at the end of the route with the provision of employment through force or deception. This often also includes substandard accommodation and extortionate interest on any initial loan. Furthermore, trafficking occurs also internally, within national borders, whereas smuggling is always across borders of states.

In practice, smuggling and trafficking are often connected, as illustrated in Figure 1.



Given the substantial overlap between trafficking and smuggling in practice, there is a clear imperative to understand the specific distinctions between the two. For example if the key element of trafficking is understood, erroneously, to relate to illegal crossing of borders, then institutions with responsibility for the protection of vulnerable people may completely overlook the much more critical and fundamental indicators of trafficking for forced labour.

The next section analyses our findings and develops recommendations on their basis. It is divided into four subsections, one on each main theme: 3.1 Migrant workers' isolation and lack of knowledge of their rights; 3.2 The complexity of migration and labour regulations in the host country; 3.3 The threat of violence and other means of coercion and 3.4 The demand for cheap labour.

Endnotes

⁹ ILO Forced Labour Convention No.29

¹⁰ Abolition of Forced Labour Convention No. 105

¹¹ Weissbrodt D & Anti-Slavery International, *Abolishing Slavery and its Contemporary Forms*, HR/PUB/02/4, 2002, at para. 19.

Available at: <http://www.antislavery.org/homepage/resources/Weissbrodt%20report%20final%20edition%202003.pdf>

¹² European Commission, Directorate General, *Justice, Freedom and Security: Report of the Experts Group on Trafficking in Human Beings*. Brussels, 2004

¹³ See the ILO Human Trafficking and Forced Labour Exploitation: Guidelines for Legislators and Law Enforcement (2004), Geneva. In Anderson, B and Rogaly B.: *Forced Labour and Migration to the UK*, TUC, Compas, 2005. p. 16.

3. Research findings: evidence of trafficking for forced labour in Europe

3.1. Migrant workers' isolation and lack of knowledge of their rights

The first set of common factors in cases of trafficking for forced labour, relates to the vulnerable situation of migrant workers. These are isolation, lack of knowledge of their rights and multiple dependency. In Portugal the respondents were mostly people without family or friends in the country of transit or destination, who lacked knowledge of the culture, language or geography of their new place of residence. They are alone and their vulnerability in this situation is often abused by means of deceit, threat and intimidation. In the Czech Republic migrants from Ukraine or Vietnam often have contacts only within their own communities. This is encouraged by the employers and intermediaries. Among the Vietnamese community the clear cultural difference and the language barrier are significant contributing factors. In the case of the Ukrainians it is usually related to the working conditions, such as long hours and working in remote places. In Ireland social control of trafficked migrant workers involved telling them explicitly not to mix with locals and in the UK migrant workers were deliberately kept behind a language barrier. Several Polish workers reported that once they started to pick up a bit of English and tried to learn the language, they were immediately sacked.

Migrant workers are often specifically picked by agents for their lack of knowledge of the local language in the country of destination. A special concern in the cases of exploitation for domestic work and prostitution is the private sphere that makes intervention and discovery from the outside even more difficult. Domestic workers are regularly told not to communicate with anyone outside the house. One woman in Ireland was berated by her employers when they discovered she had taken a lift by a neighbour, returning from the children's school.

We came across many cases where accommodation and transport to work were provided by agents and opportunities for

shopping or going out were few. We speak of multiple dependency when a person depends on the employer or intermediary for more than one of the following: a job, housing, food and/or has a loan to pay back for travel expenses, visa, the cost of mediating in the process of finding work. This is often an indicator of bonded labour where the worker cannot leave the job freely as they are in debt to the employer or intermediary.

Moving workers from one place to another, including constant changes of accommodation is another way of preventing them from getting to know the local population and keeping them in isolation. Mixing workers of different nationalities, without knowledge of the local language is also a method of social control and isolation at the workplace.

These circumstances of isolation from the majority population diminish the opportunities for migrant workers to seek support outside their network of familiar people: their agent or their ethnic community. Even in cases where an exploited migrant worker escapes, their dependency on traffickers often makes them return to their employer.

The vulnerability of migrant workers is increased by their lack of awareness of their rights. The isolation of migrant workers results in and is exacerbated by this lack of knowledge. For example, in the case of a Pakistani chef in Ireland, an exploitative employer made him believe that as he held his work permit, he had to only work for him. If he had been aware of his rights, he would have known he was free to leave the job. In the UK this lack of awareness is the basis for the exploitation of many Polish and Baltic workers, who have the right to work in the country. This situation calls for urgent intervention and a proactive approach both at a European and a national level.

An example of good practice is the dedicated police officer who informs migrant workers in Cornwall¹⁴ of their rights as well as their duties such as registering their cars for tax purposes.

To tackle the web of vulnerability and dependency perpetuating the situation of migrant workers leading to their exploitation and trafficking, we recommend:

- **Information and advocacy supports need to be provided to migrant workers at the earliest possible stage in both countries of origin and destination, in the most appropriate manner within an empowerment perspective.**
- **Adequate national and local systems, capacity, services and training around trafficking for forced labour need to be put in place to ensure that all relevant actors have the capacity to identify victims of trafficking, provide protection to them and respond adequately and appropriately to the problems of trafficking they encounter.**

Isolation of migrant workers is one factor among many that facilitates the trafficking for forced labour and exploitation of migrant workers. We have separated and prioritised it here as it exacerbates the impact of the other factors. In many respects it is isolation that keeps vulnerable migrant workers out of the reach of support organisations. However, this is only the first element that constitutes the complex set of circumstances and actions to coerce migrant workers. We now move on to the impact of the labour and migration regulations in the country of destination.

3.2 The complexity of migration and labour regulation in the receiving country

A second important factor in the web of trafficking for forced labour is the complexity of migration and labour regulation in the host countries. This makes it more difficult for migrant workers to learn their rights and to make decisions about their work, their residence and whom to trust. Labour law governs the work permits, the conditions of work, the rules for dismissal and rights to redress. Immigration law covers the status of the person's stay in the country and access to the social security system.

There are many national differences between the countries in this research project on this issue.¹⁵ In the Czech Republic, work permits are tied to one employer, workplace or a specific job and is also only valid for one year. This leaves migrant workers vulnerable to exploitation, especially as the work permit and residence permit are interrelated. The threat of deportation can make migrant workers accept abominable circumstances. The system in the UK is very complex, with a great variety of visas and work permits for different categories of workers and countries of origin. Given the complexity of the labour inspection and migration system, the wide range of departments and agencies involved in different administrative procedures make it very difficult for migrant workers to understand their entitlements, obligations and possibilities of help. With a language barrier added to that, migrant workers are left to believe what dubious agents and intermediaries tell them about the rules of the country.

Two important similarities must be emphasised here. Firstly, there are close links between residency status and permission to work; particular visas contain specific restrictions on the freedom to work, denying often the possibility to change employer without losing a residency status. This keeps workers in abusive situations without the possibility of escape. Secondly, traffickers and exploitative employers benefit from the restrictive nature of the immigration laws. With less options for legal residency, the demand for assistance in obtaining documentation rises.

Endnotes

¹⁴ Region in the south of England. .

The nationality of a worker usually also determines his/her immigration status and possibilities resulting from it. Migration status differs depending on, for example, special arrangements with former colonies, membership of the EU and special schemes for new EU member states. The asylum regime can also provide a legal manner of entry. People trafficked for forced labour in the EU come from many countries and continents. Table 1 below lists the most frequent countries of origin:¹⁶

Central and Eastern Europe:

Poland, Latvia, Lithuania, Czech Republic, Slovakia, Bulgaria, Romania, Moldova, Ukraine, Russia, Belarus, Georgia, Chechnya, and Kazakhstan

Asia:

India, Bangladesh, Sri-Lanka, China, Mongolia, Vietnam, Pakistan, Nepal, Phillipines

South America - Brazil, Columbia, Caribbean Islands, Paraguay,

Africa - Uganda, Morocco, Nigeria, Somalia.

Table 1: Countries of origin of trafficked persons encountered in the study

The fact that some of the migrant workers come from EU countries and hence should have access to many of the rights of indigenous workers does not necessarily prevent them from being or becoming exploited. This is caused on one hand by the lack of awareness and access to information about rights and entitlements. On the other hand, in the UK, it is related to the specific situation of the first year of employment for workers from the new EU countries, who have to comply with the Workers Registration Scheme.

In general, migrant workers from the new EU countries seem to be in a slightly better position with regard to the possibilities of seeking help. This was pointed out in some interviews and it was also evident that the number of migrant workers from new EU countries that contacted points of assistance was higher than the number of those from other countries.

In the UK and Ireland the majority of migrant

workers that were found to be trafficked in the course of the research entered the country legally. Some of them were entitled to work, while others had legal immigration status, but were not entitled to work. There is a great variety in the combinations of immigration status and work entitlement. In the Czech Republic trafficking in human beings is also far less connected to illegal border crossing than is widely assumed. The majority of Ukrainians enter the Czech Republic legally and Vietnamese, even if they enter illegally, will legalise their stay as soon as they can. In Portugal migrants from former colonies, such as Brazil and Cape Verde will often enter legally, yet migrants from Eastern and Central Europe often arrive via organised trafficking networks.

Despite the common occurrence of legal entry, due to the fact that this is often on a visa with limited work permits, the status of migrant workers generally changes over time, sometimes as a result of coercion (such as retention of documents) yet often as a result of immigration and labour law restrictions. This leaves migrant workers extremely vulnerable and reliant on agents and employers who may exploit the situation even if they have not necessarily created it.

Actual or perceived immigration status creates a situation of vulnerability and dependence (especially if the visa is tied to employment) and makes migrant workers an easy target for traffickers and exploiters. Several existing systems (like the registration for citizens from the new EU-member states in the UK and the tying of a visa to employers) leave them in an extremely vulnerable situation and practically legalise their trafficking. This situation needs to be addressed urgently. Therefore we recommend the following:

- **Impact assessment with regards to trafficking in human beings needs to be an essential part of national migration policy-legislative development.**

There is a wide range of actors in contact with migrant workers, either through executing their power in various aspects of workplace inspection or others, such as social services and health and safety inspection. In our research some of these professionals described how they encounter situations they found appalling, but often find it difficult to know what to do in such situations,

because they do not necessarily fall into the area of their responsibility. Police and immigration services carry out enforcement actions in these areas, but those are focused on illegal workers, or on employment of illegal workers and are rarely associated with investigation of possible trafficking for forced labour. Furthermore, there is confusion between actions against unauthorised working (the enforcement of immigration control) and action on behalf of unauthorised workers (the enforcement of labour standards and the protection of fundamental human rights). This is particularly evident in the UK where the Immigration Service has quotas for the deportation of certain nationalities. In specific instances, such as with Chinese nationals trafficked into the UK for forced labour this can run in clear contradiction to law enforcement priorities. These would require building trust with the forced labourers to gain a better understanding of the criminals running the forced labour supply chain that they have been enslaved in. Without minimum standards of protection guaranteed for the forced labourers they have no incentive to co-operate with law enforcement, knowing that their future holds only the prospect of deportation and possible re-trafficking, as repatriation puts them once more at the mercy of the criminals who enslaved them in the first place.

The fact that various agencies deal with different aspects of labour conditions and possible exploitation makes the system complicated and untransparent for people who are not part of it, let alone migrants who do not understand it. The research has shown that professionals, including law enforcement officers, rarely identify migrant workers as having been trafficked, which is essential if their needs are to be met.

National bodies should be established that would monitor employment practices and working conditions and would link all the agencies carrying out various tasks of inspection. This could be modelled on the “Fair Employment Commissions” as called for by the Citizens Advice Bureau in the UK¹⁷ that would establish a more co-ordinated system for investigation of complaints, inspections, advice, guidance and practical business support for small, low-profitability employers, and pursue a pro-active approach to compliance and, where necessary enforcement. Furthermore, because of the lack of a joined-up approach, responsibilities are isolated and

unintegrated. As a result of this, a situation of exploitation is not dealt with, since it does not fall directly under the remit of a specific agency. The issue of trafficking for forced labour is a new one for these agencies and hence there is a lack of awareness and knowledge that needs to be addressed.

Those who are likely to encounter trafficked people or migrant workers at-risk should be trained in the detection of indicators of forced labour and trafficking. They should approach potential victims of trafficking as survivors of human rights abuses and not as illegal immigrants.

In Ireland a migrant worker who was threatened with denunciation to the authorities by an exploitative employer did not feel he could tell the authorities about his ordeal. Instead he predicted that ‘they will probably put me on a plane and send me home and I was very afraid so I had to start work.’

The groups to be trained in the identification of trafficked and forced migrant workers include law enforcement and immigration, NGOs and other assistance workers, social services, unions, minimum wage and labour inspectors, labour providers and so on.

Lessons learned from dealing with cases of trafficking for sexual exploitation is that protection of the rights of trafficked people goes hand in hand with successful prosecutions of the perpetrators. This aspect needs to be embedded in a policy that starts looking at the real position of migrant workers and also needs to focus on enforcement of labour standards. At present, there is also a low incentive for whistle blowers and possible system for their anonymity and protection. Thus, workers do not come forward with their complaints because they fear punishment or branding as troublemakers. Added to that, workers in irregular situations fall under present policies where they are most likely to be deported if they blew the whistle. This prevents them from coming forward.

All countries and the EU as a whole should aim for the harmonisation of law enforcement responses to all forms of trafficking. Numbers of investigations, prosecutions and sentenced cases of trafficking should be published annually.

In addition to the training of law enforcement personnel to recognise the indicators of forced labour and identify victims of the crime of trafficking for forced labour, they also need to cooperate with new actors that are connected to the labour market and migrant rights. Guidelines on dealing with cases of trafficking for forced labour and labour exploitation should be elaborated and mainstreamed within the police and immigration service.

Anonymous hotlines proved to be a useful tool. However, there needs to be a link and co-ordination with other actors that can provide assistance. At the same time, migrant workers rely heavily on informal networks, both for work and information. They are also often a source of help. Migrant workers are more likely to trust information that came through their informal network rather than official channels. A multi-agency system of referral should be created that encompass assistance and protection based on the specific needs of people trafficked for forced labour and labour exploitation.

Finally, one of the main conclusions we can draw from the analysis of the four country reports is that at present far too little attention is paid to trafficking for forced labour in industries other than the sex industry. Despite official recognition of the definition of trafficking to include other industries, in practice there is still little evidence of the application of policies to combat trafficking to these different types of cases.

Governments should support relevant agencies working with migrants in order to extend and develop their services for people trafficked for forced labour as well as vulnerable migrant workers. In developing responses a greater emphasis at community level and the points closest to where the person being trafficked is located is essential. This requires the involvement of relevant service providers, local decision makers and NGOs.

In summary, the restrictive and complex systems of migration and labour policies in European countries form an additional barrier for safe migration. Migrants hence resort to unsafe migration routes and are therefore at risk of being trafficked.

Endnotes

¹⁵ More details can be found in the country reports.

¹⁶ Based on findings in the UK, Portugal, Ireland and the Czech Republic.

¹⁷ Citizens Advice Bureau, *Somewhere to turn: The case for a Fair Employment Commission*. 2004. p. 11

3.3. The threat of violence and other means of coercion

Migrant workers throughout Europe are kept in exploitative situations that amount to forced labour through the use of coercion. In a large number of cases reported to us a third important factor in their situation is the threat of violence made to the migrant worker or their family at home. Other common means of coercion are debt bondage, withholding documentation, creating multiple dependency on agents or employers, and withholding payment. In this section we will outline the relative weight of the different means of coercion in our four countries and recommend ways forward in combating trafficking derived from our analysis.

Threats of violence are usually underlined partly by myths planted by exploitative employers and partly by the knowledge of what happened to fellow workers. For example, in Ireland a domestic worker reported incidences of physical abuse. In the Czech Republic it is well-known that Ukrainian bosses in the construction industry spread rumours about a severe case of violence which then prevents workers from rebelling against their circumstances. In Portugal, situations like removal/retention of documents, threats of repatriation or detention by the police authorities and physical violence were identified as common forms of coercion. In the UK, contrary to incidents of trafficking for sexual exploitation, physical violence and constraint are usually not applied and the incidence of actual physical violence is rather rare.

Debt bondage is a situation where an individual works to pay off a debt or loan, and is not paid, or is significantly underpaid, for his or her services. Also, the work they perform is of higher value than the money they are paid, if they are paid, for such work. The employer may provide food and accommodation at such inflated prices that the worker cannot escape the debt. Many migrant workers borrow money for travel and to finance their start in the country of destination. Some of them would receive advance loans from agencies to arrange tickets, job and formalities. The money to repay the loan would be deducted from wages after the worker starts working. However, the interest rates on such loans are often so excessive that, given the fact that there are probably further

deductions made from the worker's wage for accommodation, transport etc., s/he does not have any real chance to repay the debt and survive at the same time. With regards to the debt previously incurred in the country of origin, it could be both a loan from family/relatives or from dubious private moneylenders¹⁸. If the worker's wage is withheld or lower than agreed, s/he will be in the same bonded situation, fearing to leave the exploitative employment, hoping the money will be paid in the end or to achieve a wage increase.

Threats are also very effective ways of coercion. There is a myriad of ways in which threats are used to assert control over the workers. They range from threats of violence, threats of denunciation to the authorities (for illegal stay or failing to register), to intimidation by punishment for complaints about working conditions. Sexual harassment, abuse and threats of sexual violence are a means of coercion specifically used in the case of women. In several cases women were threatened with being sold to pimps for forced prostitution to make them accept exploitative working conditions or different work.

The more subtle forms of coercion, in particular threats and intimidation, cause great insecurity of the exploited person. Thus, workers are easily manipulated and are put under constant stress. Further methods of control are connected to living conditions. Accommodation is often tied to employment and there is a constant worry that the loss of the job will leave them homeless. In the UK, cases of intrusion of privacy by employer/landlord and checking on workers outside of working hours were repeatedly reported. In the UK and Ireland, the overall conditions are often very poor, with overcrowding, lack of sanitation and hygiene, safety issues and overpricing being the main problems. Some workers were accommodated in places such as sheds or warehouses. Others were made to stay in caravans and tents (especially in agriculture) although they were promised double rooms. Sleeping on the floor, with a strange person in a double bed or in unheated premises in winter were some of the situations the workers had to put up with.

In Ireland, restaurant workers mostly complained of overcrowding with five men sharing one tiny room with not enough beds so that one of them had to sleep on the floor. In Portugal, the above

complaints applied too and in the case of construction workers there was a report of adapted transport containers used as lodgings. There were no toilet facilities ('we had to move away into the woods...') and water had to be used from the water pipes while working on the site.

A feature that keeps reoccurring is the gradual worsening of the conditions as a function of immigration status of a worker. People have found themselves in a forced labour situation because the employer/agent has abused their power given by the fact that visa/work permit was tied to an employment/employer. In some instances, workers were prevented from extending their visas and subsequently exploited under threats of denunciation to the authorities. Situations, where exploitative conditions amounted to slavery-like practices around the visa expiration were pointed out. Workers were threatened that their visa would not be extended unless they accept the conditions. Once their visa expired, they were further kept in the situation by threats of deportation.

The frequency of occurrence of the other means of coercion differs between countries. In the UK respondents reported that during the recruitment, deceptive practices might be applied. Ways of coercion are more subtle, using in particular methods of manipulation, psychological pressure and threats. Structural factors such as long sub-contracting chains, labour intensive, non-unionised sectors, casualised arrangements and indebtedness to employers who are involved in recruiting and imposing labour play a major role in exploitative employment relationship.¹⁹ The "top three" means of coercion recorded in the UK were withholding/retention of identification documents, debt bondage and threats. In Ireland, threats related to workers' immigration status were very common. A construction worker was forced to start work too soon after an accident when his employer threatened to cancel his work permit, which would have made his residence in Ireland illegal. In Portugal the constant stream of insults together with the strong circumstances of discrimination leave migrant workers feeling inferior and not entitled to any rights. In the Czech Republic withholding of wages or documents is the most frequent form of coercion. Violence, threats of violence, threats of denunciation to the authorities and restriction of personal freedom also appear to be frequent. Debt bondage is the least frequent in the Czech Republic although it is

mentioned by some.

In order to overcome the hold of traffickers and exploitative employers over migrant workers, incentives should be provided for migrant workers to come forward to the authorities. These would need to be based on confidentiality, protection from violence and assistance for voluntary return or secure immigration status. A confidential help-line is one of the ways to facilitate assistance and help to migrant workers. Residency permits and protection offered to trafficked persons that are tied to the duration of criminal proceedings are in effect only a stay of deportation for the purposes of a suspected trafficker's trial. "In the vast majority of cases, the trafficked person is seen primarily as a witness, and as a tool of law enforcement. If this continues to be the case, the right of victims to have access to justice will continue to be denied, and prosecutions will fail because trafficked persons will be neither willing nor able to testify."²⁰

Since there is a reported lack of provision for migrant workers to make complaints, efficient complaint mechanisms should be put into place for victims of forced labour, and also for victims of labour exploitation abroad, as well as for victims of abusive recruitment practices.

All migrant workers should be able to present a civil case, regardless of immigration status in order to receive reinstatement of rights and compensation for damage suffered.²¹ The migrant should also be allowed to temporarily regularise their status in order to pursue these cases. These provisions should be safeguarded at a European level and implementation should be monitored by National Rapporteurs.

Finally, without tackling structural factors of demand for cheap labour (section 3.4) or the root causes of the supply of migrant workers who are willing to do almost anything to try to earn some additional income for their families, at least the protection of the victims of trafficking for forced labour into any industry should be in place.

We therefore recommend that:

- **Temporary or permanent residency status and or access to services should not be dependent upon a survivor participating in criminal proceedings.**

The various means of coercion used to force migrants to work vary in severity. Overall, despite the harshness of violence and the threat of violence, the more subtle forms of coercion should not be overlooked when assessing if a case constitutes trafficking for forced labour. The experience of withholding payment, for example is very effective in keeping a migrant worker tied to a job as they feel under great pressure to send money home. In the Czech Republic, many reported that the fear of not getting paid at all if they left a job was sufficient to remain working in exploitative circumstances.

3.4 Demand for cheap labour and the supply of migrant workers

The fourth major factor in trafficking for forced labour is more structural: the increasing demand for cheap labour in many of the industries and service sectors in the European Union. The process of economic globalization puts increasing downward pressures on wages and other labour standards. European integration also provides a challenge for workers' protection, as the subsidising of national industries is no longer accepted. These economic factors fit in with a political decision about the advantages of free markets. Even in cases where employers pay a minimum wage, the increasingly widespread practice of subcontracting creates opportunities for agents to cream off the earnings of the migrant workers.

On the other hand, the lack of employment opportunities and therefore of means for survival in many countries tempt people to try their luck elsewhere. The urgent need to provide one's family with the basic means of survival creates an incentive to endure difficult circumstances which are often presumed to be temporary. The majority of migrant workers wants to return to their home countries, but not battered and without any money, let alone with debts, which would put them in an uneasy or dangerous situation. In Ireland one Chinese migrant worker exclaimed on the prospect of returning home without money: 'I am helpless. I am scared. I can't go back to China. How to face friends and family?' illustrating the intensity of the pressure of shame.

The combination of the demand for cheap labour in Europe with the urgent need for many in countries outside the EU to search for a better life, simply to provide additional income for basic resources in the family, establishes the circumstances in which people take risks in their migration strategies.

The demand for cheap labour is illustrated by the length of the list of industries and sectors in which we have found indicators of trafficking for forced labour and of exploitation. Despite differences in emphasis between the four countries, the findings were very similar. In congruence with the ILO findings²², agriculture and construction are the two sectors most prone to forced labour. Apart

Endnotes

¹⁸ This practice is common in some communities and among some ethnic minorities, such as the Roma in Slovakia.

¹⁹ Institute of Employment Rights. *Labour Migration and Employment Rights*, London, 2005, p.57

²⁰ Pearson, E., *Human Traffic, Human Rights: Redefining victim protection*, Anti-Slavery International, 2002, P. 35.

²¹ Anderson, B. and Rogaly, B., *Forced Labour and Migration to the UK*, TUC, Compas, 2005. p.61.

from agriculture (and connected relevant industries, such as food processing, packaging and shellfish gathering), construction, cleaning, domestic work and forestry were pointed out frequently. Existence of sweatshops was reported in the Czech Republic. Other sectors mentioned a lot were care (including nursing), restaurant trade and hospitality. Work in car washing, security, heavy manual labour in harbours, collecting of shopping carts in parking lots in front of supermarkets and selling CD, DVDs and other items on the streets were also mentioned in several cases. Anecdotally, cases of forced labour in bakeries, laundry services, nail parlours and motorways services were spoken about.

Industries depending on casual and temporary labour, low-wage sectors, where subcontracting is a common practice and long, often hard to track supply chains operate are those where exploitation and forced labour are most often found. Labour shortage and very competitive and demanding markets also play a role.

The industries where exploitation or trafficking for forced labour takes place are widespread. They are certainly not restricted to illegal or semi-legal practices like prostitution, begging and shoplifting. Moreover, even the public sector, either directly or through subcontracting, has been known to be prone to labour exploitation.²³

All public sector employers should sign a code of conduct on the conditions for sub-contracted workers. This would safeguard decent working conditions and ensure absence of exploitation and forced labour for all workers. Strict monitoring should accompany such regulation.

In the UK, the use of sub-contracted labour and services is very common in the public sector. Several of the respondents expressed concerns about possible cases of forced labour, where exploited construction workers were working on projects sub-contracted from the public sector. Similarly, in one case payments were made from the National Health Service to an agency that supplied carers and exploited them. Anecdotal information was also given about cleaners and agency workers providing catering services. In addition, the prospective employers in the receiving countries need to develop more awareness of the systems of subcontracting and the human rights violating practices that involve

migrant workers. They also need to counteract the discrimination in labour standards applied to temporary workers and foreign work permit holders.

In several cases we received information indicating that people had been trafficked for illicit activities such as shoplifting, pick-pocketing or financial fraud. However, they were not registered as cases of trafficking, although the external indicators would suggest circumstances that correspond to trafficking situations.

In order to address the demand for cheap labour, recent research has also shown the relevance of trying to interrupt the pressure of consumers for cheap products.²⁴ Consumers should be encouraged to ask for information under what conditions the product was manufactured. Initiatives focused on extending fair trade systems to a fair employment/condition mark should be supported. Awareness raising among consumers of products and services about the issue of trafficking for forced labour and labour exploitation should be carried out. Companies should sign up to codes of conduct (e.g. the Ethical Trading Initiative) and take responsibility for their subcontracting chain.

The demand for cheap labour and the supply of migrant workers are part of a structural process in the global economy. However, that is not to say that agents such as governments, employers, consumers and workers have no choices. Their choices are constrained yet they have options to counteract the forces that encourage trafficking for forced labour and labour exploitation. Here we mentioned awareness raising and the enforcement of ethical codes of trading, yet these should be viewed in the light of more wide-ranging campaigns and measures to be considered, such as the implementation of human rights and support for measures to create global equality.

Endnotes

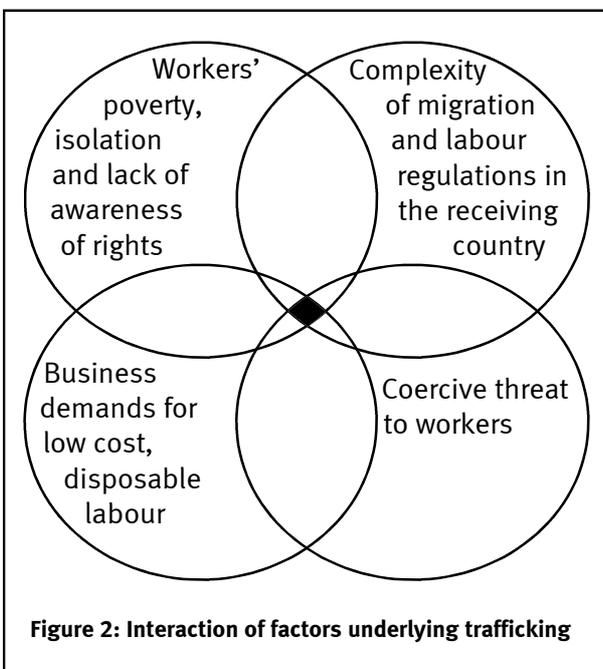
²² ILO, *A global alliance against forced labour*, ILO, Geneva, 2005

²³ For an example of the exploitation of Filipina nurses in the National Health Service in the UK, see Anderson and Rogaly, 2005

²⁴ Manokha, I. 'Fair trade' in van den Anker, C., *The Political Economy of New Slavery*, Basingstoke, Palgrave, 2004

4. Conclusion

Our research showed that cases of trafficking for forced labour occur across Europe in a wide range of industries. This report identified four main factors affecting the exploitation of migrant workers, being simultaneously the key underlying factors of trafficking. The workers’s poverty (mainly connected to the situation in their place of origin) compound with lack of awareness of rights, isolation (often as one of the methods of coercion) and multiple dependency make migrant workers vulnerable to trafficking and exploitation. If occurring in an environment with complex and tight migration and labour regulations, these often reinforce the vulnerability. As a consequence, the workers not only resort to the hands of traffickers to realise their migration project but also stay in the abusive situation for the lack of prospect to access their rights. Demand for low cost and disposable labour exists simultaneously in the environment and also enables the traffickers to generate enormous profits. Lastly, the threatening mechanisms used to put and keep the migrant workers in situations of exploitation and forced labour complete the complicated pattern of the four interacting factors.



The interrelationship between these factors constructs a tight web of circumstances, illustrated in figure 2, that make it hard for migrant workers to break away from a situation of

trafficking for forced labour or exploitation. The four factors by no means represent exhaustive list of elements allowing trafficking and exploitation to happen. Albeit, if these factors are present in a given country or region, it is likely to find trafficking and exploitation occurring.

To eliminate trafficking for forced labour and abate circumstances causing people’s vulnerability to exploitation, these four contributory factors need to be addressed. In order to address the issue effectively, we recommend the governments apply measures reflecting the following:

1. Understanding trafficking in human beings in its breadth

- Trafficking for forced labour cannot be reduced to a problem of border and immigration controls.
- Trafficking for forced labour is a complex multi-causal and dynamic phenomenon that demands sophisticated responses.
- Trafficking for forced labour needs to be more visible as a pressing social issue and be incorporated into ethical business standards and be targeted by all relevant actors particularly trades unions, NGOs.
- Trafficking for forced labour must be identified and understood in the context of people’s situational vulnerability. The means of arrival in the country of destination is not relevant to their identification as victims of trafficking for forced labour. The situation of exploitation should be the primary determinant and an indicator for prompting investigation. Further it is only by understanding a person’s situational vulnerability that the level of freedom of their consent can be properly assessed.
- Trafficking for forced labour is in need of further research particularly in terms of its effective treatment by governments nationally and globally.

2. Responding to trafficking and protecting trafficked persons

- States need to sign up to the Palermo Protocol, the Council of Europe Convention on Action against Trafficking in Human Beings and other relevant protocols, such as the UN Convention on the Protection of Rights of All Migrant Workers and their Families.
- Governments must appoint independent National Rapporteurs on Trafficking in Human Beings to assess and evaluate national effectiveness in responding to the needs of trafficked people and addressing the problem of trafficking.
- Adequate national and local systems, capacity, services and training around trafficking for forced labour need to be put into place to ensure that all relevant actors have the capacity to identify victims of trafficking, provide protection to them and respond adequately and appropriately to the problems of trafficking that they encounter.
- Timebound pilot initiatives on identification and protection for trafficked people need to be initiated and supported, with provision for independent evaluation and resourcing available for extension and scaling up of best practice.
- Temporary or permanent residency status and or access to services should not be dependent upon a survivor participating in criminal proceedings.

3. Preventing trafficking

- Trafficking for forced labour is a global problem requiring global solutions. The UN High Level Dialogue on International Migration Phase II needs to focus on trafficking for forced labour.
- Impact assessment with regards to trafficking in human beings needs to be an essential part of national migration policy-legislative development
- Businesses should engage in dialogue with other actors in civil society to develop policies and practices to identify and respond to forced labour in their entire value chains and develop codes of conduct to help take responsibility for trafficking for forced labour in their subcontracting chain. Awareness raising among consumers of products and services about the issue of trafficking for forced labour and labour exploitation
- Information and advocacy supports need be provided to migrant workers at the earliest possible stage in both countries of origin and destination, in the most appropriate manner within an empowerment perspective

Bibliography

- Anderson, B. and Rogaly, B., *Forced Labour and Migration to the UK*, TUC, Compas, 2005.
- Citizens Advice Bureau, *Somewhere to turn: The case for a Fair Employment Commission*, 2004.
- European Commission, Directorate General, Justice, Freedom and Security, *Report of the Experts Group on Trafficking in Human Beings*, Brussels, 2004.
- Gangmaster Licensing Authority: <http://www.gla.gov.uk/>
- ILO, *A Global Alliance Against Forced Labour*, ILO, Geneva, 2005.
- Institute of Employment Rights, *Labour Migration and Employment Rights*, London, 2005.
- de Jonge van Ellemeet, H. and Smit, M., “Trafficking for exploitation outside the sex industry” in van den Anker, C. and Doomernik, J. (eds), *Trafficking and Women’s Rights*, Basingstoke, Palgrave, 2006.
- Kaye, M., *The Migration-Trafficking Nexus: Combatting trafficking through the protection of migrants’ human rights*, Anti-Slavery International, London, 2003.
- Manokha, I., “Modern Slavery and Fair Trade Products: buy one and set someone free” in van den Anker, C., *The Political Economy of New Slavery*, Basingstoke, Palgrave, 2004.
- OSCE/ODIHR, *National Referral Mechanisms*, Warsaw, 2004.
- Pearson, E., *Human Traffic, Human Rights: Redefining victim protection*, Anti-Slavery International, 2002. Available as a PDF at:
<http://www.antislavery.org/homepage/resources/humantraffichumanrights.htm>
- Weissbrodt D & Anti-Slavery International, “Abolishing Slavery and its Contemporary Forms”, HR/PUB/02/4, 2002, at para. 19. Available as a PDF at:
<http://www.antislavery.org/homepage/resources/Weissbrodt%20report%20final%20edition%202003.pdf>

Appendix 1

Case study UK²⁵

Polish workers in food packaging (taken from a press release of a recruitment agency).

A group of Polish people came to work in the UK. A gangmaster's minivan brought them to a house in Exeter in the middle of the night and they had no idea where they were. They were made to wait on the patch of grass outside while the dozen or so Afghans inside were told to throw their things into black dustbin bags. The Afghans looked frightened. They were bundled into the van and driven off. And that was the last the Poles heard of them. The driver was Chinese-looking and spoke no English; the Poles spoke no English either, so they could not ask what was going on.

The Poles said they had been told when they were recruited back home that they would be working somewhere near Southampton. They said there had been no mention of packing chicken for Sainsbury's in Devon. But without language, money, or even the proper name of the boss of the company to which they seemed to have been handed over on arrival in England, they felt helpless. They were not employed directly by the factory that supplied Sainsbury's but subcontracted in a complex chain through a series of labour agencies.

The house where the Poles were taken was unremarkable from the outside. Inside there was no furniture, just mountains of rubbish, piles of syringes, soiled mattresses on the floor and a terrible smell. They slept on the bare mattresses and were taken by the minivan to their 2am-10pm shift.

They have been threatened with eviction and loss of two weeks' wages by their gangmasters if they dared to tell anyone about their conditions. They were also told they must be very quiet and not to go out in groups or the police would come. They said they felt intimidated.

They had been recruited in Poland to come to England after May 1, 2004, as soon as they were legally entitled. Two men from an English labour

agency came to a central Polish city and interviewed workers in batches of ten, non-stop for two days. They had been promised the minimum wage, £4.50 good accommodation for £25 per person per week, and lots of hours of overtime. But the Poles said it had gone wrong almost as soon as it started. There had been no work and no wages in their first week in Southampton. They were told they would have to pay rent of £40 each, although they were sleeping on the floor in the kitchen and in the sitting room. Then suddenly they had all been taken to Exeter in the night and left there.

Their payslips showed that £40 was being deducted from each of their pay packets each week for rent although the legal maximum for those on the minimum wage was just under £25. Several of them were given the same national insurance number. They were having tax deducted at a high emergency rate, though the tax office said it had not yet received payments for them. The contracts they signed were made without translation. After deductions their payslips showed they were getting just £115 a week for 40 hours. But this was not what the runners who brought their cash were actually giving them, they said. Another £15 was disappearing along the line without explanation. Most of them had not registered with the Home Office because the £50 required seemed an impossible amount when they were trying to survive and support families at home on so little money. By failing to do so, they had put themselves on the wrong side of law.

Among the group was also a couple in their early 40's. She was one of two women in the group, sleeping on the floor of what should have been the sitting room. They left their four children with the man's mother after he had been made redundant from his job in financial services in an area of Poland where there is 23% unemployment.

In the corner of the downstairs room that served as a kitchen, there was an electric cooker that had no plug, so the mains cable had its wires stripped bare and pushed straight into the socket.

There was also a great confusion about their pay. A man said to be Afghan had been coming late at night on Saturdays with their cash, but five of them hadn't received any money last week. They did not know who their boss was to complain to, their payslips carried the name of a different company, but it had no address, nothing you could pin down.

The companies involved in this case stopped their operation and some of the debts to the Inland Revenues have been repaid.

The workers managed to escape their conditions thanks to the involvement of the union.

Appendix 2

Case study Portugal

A, B and C, Romanian nationals, lived all their lives in an orphanage.

They knew a young man in the village nearby who spoke of the chance to earn money in a short period of time abroad. Because they had no family and practically no future in Romania, they accepted the work offer.

The transportation was made in a van by Romanian citizens and Romanian Roma, with seven other individuals. Upon their arrival, they were sold to other Romanian and Portuguese Roma (to the highest bidder).

Their passports were taken and they were beaten every day.

Every day they were brought to the fields to pick fruit, they were paid for their jobs by the farmers, but their money was taken away from them by the traffickers. They lived in constant fear.

Even though only one of them spoke English, they were able to distract the traffickers and escaped with the help of one of the farmers.

The police took their statement and they expressed their desire to return to their homeland. International Organization for Migration was contacted, because of their voluntary return programme.

Endnotes

²⁵ Lawrence, F., [Special Investigation: Polish workers lost in a strange land find work in UK does not pay](#), *The Guardian*, 11 January 2005

Appendix 3

Case study Ireland

Rana

Rana is from Bangladesh. She is in her mid-twenties and is an experienced child care worker but before coming to Ireland she was working in the textile industry. She is single, her family are not well off and there is high unemployment in the area. People from her locality had emigrated to Europe and the US and there were reports of how they had prospered. As a result emigration is seen as providing a great opportunity. When this opportunity arose for Rana it would have been considered very foolish not to avail herself of it.

While working in the textile industry in Bangladesh Rana met her prospective employer who offered to bring her to Ireland to look after his children. She believed she would be well paid and in a position to send money home to her family. She paid him in the region of €5,000 and he promised to organise her work permit. This money was borrowed from family and friends.

A work permit was organised and Rana entered Ireland legally. She was working minding four children and also had general domestic duties. Her employer had a retail shop and from time to time she had to also work there. She was paid €50 per month after deductions were made for lodgings. Her employer told her that he was sending money home to her father as she had borrowed from friends and relatives to pay him to come to Ireland. Rana subsequently learned that her father had received one payment of €700.

During the two years Rana worked in this house she was constantly verbally abused and at times physically abused. She also locked in a bathroom if her employer felt she had not listened or completed her work properly or if she became upset and cried.

Rana became exhausted and very frightened. She had no English and no one to turn to. She had no knowledge of the Irish work permit system. There was another girl living in this house in the same position. It reached a point where she felt she could not continue to work and live under these

extreme conditions and decided to try to leave. She decided to approach a regular visitor to her employer's home. She believed he was kind and that he might help her if he knew how desperate her position was.

There were dangers in contacting this man as she had to contact him at his work place. She was also very frightened that her employers would hear about this. Eventually she made contact with this man and he agreed to help. Rana calls this man her saviour.

She simply left the house and he took her to his home in another part of Ireland. After two months he obtained a work permit for her to work in his restaurant. She says she is being paid the minimum wage and is given the correct amount of time off.

Her new employer is now offering Rana a job as a childminder in his home to look after his child. The family wish to employ someone from a similar cultural and religious background to instruct their child in their religious beliefs. Rana would like to return to this type of work as this is what she initially came to Ireland to undertake. She wants to work legally in this sector and repay her debt back home and help her family. The MRCI are helping Rana to sort out a new work permit.

Appendix 4

UK Report Summary

Trafficking for Forced Labour

Over the past six months, Anti-Slavery International has conducted research into trafficking in human beings for forced labour in the UK. The aim of the research was to see what patterns the phenomenon takes in the UK and to gather information on the situation of trafficking for forced labour and the exploitation of migrant workers in areas other than sexual exploitation.

In the course of the research 23 professionals working in various agencies that come into contact with migrant workers were interviewed. Direct interviews were conducted with 11 migrant workers employed in different industries. In addition, around 300 migrant worker case files which English CAB recorded in the past year were reviewed. Media monitoring, examining portrayal of migrant workers by three monthly, weekly and daily British periodicals was carried over the research period and provided further information for the report.

More than one case of forced labour was recorded in the following industries: agriculture, domestic work, construction, food processing and packaging, care/nursing, hospitality and the restaurant trade. Anecdotal information is available on forced labour in motorway services, casual labour in ports and other services, such as laundry and nail parlours. In several cases we received information indicating that people had been trafficked for illicit activities such as shoplifting, pick-pocketing and street sale of pirate CD and DVDs. While gender division is apparent in some industries, in others both men and women are found (e.g. agriculture).

The five most common methods of coercion utilised to put/keep people in forced labour situations were debt bondage, passport/ID retention, abuse of the vulnerable position of migrant workers, threats/intimidation and bringing the people into a situation of illegality. Coercive recruitment, where debt bondage and deceit are involved, occurs both in the countries of origin and in the UK and is a significant factor in

trafficking for forced labour. Contrary to trafficking for sexual exploitation, physical violence seems to occur rarely in this area and it is mainly limited to both direct and indirect threats of violence.

Among the identified trafficked people were nationals of European, African, South American and Asian countries. The majority of them entered the UK legally, but then became or were made to believe they were illegal as a result of action by the traffickers in order to control them for the purposes of exploitation. Their often insecure immigration status makes migrant workers not only extremely vulnerable and exploitable, but also liable for violation of immigration regulations. A domestic worker who was treated by the family like a slave eventually managed to escape through a window. Her passport remained locked in the house. A policeman at the police station asked for her documents. She was not able to present them, but wanted to tell him what happened. However, he insisted on seeing her documents and establishing her identity first.

None of the cases have been identified as cases trafficking for forced labour by the agencies that initially recorded them. Furthermore, in the majority of cases, we do not know what happened to the trafficked people. This implies that identified cases represent only the tip of the iceberg. The vast majority of people trafficked for forced labour and labour exploitation are not identified as there is insufficient awareness or training amongst the relevant agencies and individuals.

Appendix 5

Portuguese Report Summary

Considering the increase of trafficking in human beings, both for the purpose of sexual and labour exploitation, and realising that most of the research and measures made in this area (although still insufficient) concerns the first form mentioned, the comprehension and the implementation of protection procedures in situations related to trafficking for other purposes than sexual exploitation becomes crucial.

The importance of the identification of the victim of trafficking is underlined by the complexity of this problematic issue. In fact, they are frequently treated simply as undocumented migrants, and as such are immediately returned to their countries of origin.

Over six months, APAV – Portuguese Association for Victim Support conducted research that focused on the gathering of information into trafficking for forced labour in Portugal.

With this, the aim is to put forward recommendations that will create forms of cooperation between the relevant actors in these situations, based on a human rights approach, focusing on the rights of (potentially) trafficked persons in line with the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000), OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking (2002) and ILO Convention No.29 on Forced Labour (1930) and ILO Convention No 105 on Abolition of Forced Labour (1959).

Research Methods:

Interviews and questionnaires with migrant and relevant entities:

- 17 interviews were made with migrant workers.

They were held in APAV, and in Serviço Jesuitas aos Refugiados (Jesuit Refugee Service). Consent was requested and

guarantees of confidentiality and anonymity of their declaration were given.

- 18 questionnaires and five interviews were made to professionals. Investigators (2), specialised NGO officers (2), members of migrant community association (2), Border Police Officers (2), Judiciary Police Officer (1), migrant support Institutions (6), ACIME - High commissioner for migration and ethnical minority (1), general NGO (3), Welfare services (2), Labour Inspector (1), IEFP – National Institute for labour and professional training (1). In total, 23 professionals.

Case studies analysis:

Three of the interviews with migrant workers were selected for deeper analysis. These cases were chosen because of the complexity of the situation itself, but also because of the different areas and gender that they represented.

After the selection of these cases, the purpose was to focus on the human rights violations that the person experienced, despite the obligation of the states to implement them.

Local round tables/workshops:

- One workshop was organized, and participation on two others with the same topic (one organized by the International Labour Organization office in Portugal, and another organized by the border police).
- Because of the protocol established with the Escola de Comunicação Social (School of Communication and Media Studies) concerning the media monitoring, we participated in the seminar “jornalismo Responsável”, with the findings of this project that tended to highlight the possible role of the media on the creation of solutions, namely awareness amongst the population in general and the prevention concerning potential victims.

Media coverage monitoring:

The purpose was to understand whether and how migrant workers are portrayed in print media under the topics of migration, labour market and crime. Concerning the power of the media in the awareness of the general population about issues, and the relevant part they have in the formation of opinions, we chose to establish a protocol with the Escola Superior de Comunicação Social (School of Communication and Media Studies).

Outcomes

The migration process starts with the wish for a better life, and the consistent demand for migrant workers whatever their legal status (although there are legal sanctions concerning the employment of workers without their legal status regularised, there are people who are in the national territory for up to seven years, and are irregular). Many are pushed by the need for survival, others by the quest for a more stable personal or/and financial situation for them and their children.

The interviews were made with migrants from Brazil, Ukraine, Cape Verde, São Tomé and Príncipe, Angola, Armenia, Georgia, Guinea-Bissau and Kirghizstan, and the following industries were identified: agriculture, commerce, construction, services (note that the identification of these sectors and nationalities is not intended to be exhaustive, but only the starting point for other research on this topic).

Most of the migrants entered Portuguese territory legally because of the existence of bilateral agreement with some countries concerning the possibility of entry without a visa; with a tourist visa, or even through permission of transit in another Schengen Country, but not with an adequate permit that would enable them to work. Some of them paid the trafficker to “arrange” the proper documents, and even after their exit from the situation of exploitation, believed that they had already paid for (and had) the correct visa.

These are people that have no family or friends in the country of transit or destination, and most of the times have no knowledge of the culture, language or geography of their new land. They are alone, and the vulnerability of this situation is so

often abused by means of deceit, threat and intimidation. Situations like removal/retention of documents, threats of repatriation or detention by the police authorities and physical violence, were identified as common forms of coercion.

Most of the organizations that give support to potential victims, although realising that trafficking is a problem and a growing one, do not identify this issue as professionals. This could be associated with several facts: the migrants do not consider themselves as having been exploited, they are still afraid of the traffickers, they are suspicious of any form of organization (governmental or non governmental), they were misinformed about the existence of means of institutional support during the situation of exploitation (believing that being irregular they would be denounced as such, put in jail and repatriated to their home countries), but another reason that must be taken into account is the ability of these bodies to identify a person as having been trafficked or exploited.

In what concerns victim support, there is no specific legal framework concerning trafficking for forced labour, and therefore, no specific legal form of protection. The support organizations are not specialized in trafficking situations and when dealing with these cases, an informal network is used. In practice the difficulties in support are intensified when the victims are not regularly in the national territory because of the above mentioned non existence of legal forms of protection. There is only one exception to this “normal” procedure, and that is in cases when there is a prosecution of a case of trafficking and if the victim is willing to cooperate as a witness (because of the non existence of the specific type of crime, the prosecution is normally connected to organized crime). In these situations, a temporary residence permit can be issued on a case by case basis. Therefore, until there is a co-ordinated formal network of all these bodies, (support institutions, police and judicial authorities, and governmental bodies of labour control), cooperating with the same specific procedures the protection of the victims cannot be truly effective.

Appendix 6

Irish Report Summary

From the mid 1990s Ireland's exceptional economic performance created an unprecedented demand for labour, which caused a reversal of Ireland's migration history, and it is now a country experiencing inward migration. A recent report highlighted that in 2005 non-Irish nationals in employment represent 8% of total employment. This dramatic change in the composition of the workforce has not occurred without difficulties. NGO's, trade unions and media reports have provided evidence that some migrant workers are experiencing a combination of exploitative and abusive conditions.

While awareness of exploitation and abuses of migrant workers in Ireland has been growing, awareness of human trafficking to Ireland has only recently begun to be acknowledged. NGO's have been arguing that a problem affecting the rest of Europe was unlikely to have passed Ireland by. However, there are no official statistics on trafficking in Ireland and a lack of research in this area has meant that available information is largely anecdotal. In addition, Ireland follows the general perception that where trafficking occurs it is usually women who are trafficked for sexual exploitation.

The Migrant Rights Centre Ireland (MRCI) conducted research which has attempted to identify and assess the situation with regard to trafficking for forced labour in sectors other than for sexual exploitation. The project was funded from January 2005 for two years and it aims to identify effective policies at a local level for supporting people trafficked into labour exploitation.

The approach used was human rights based, focusing on the rights of (potentially) trafficked persons in line with the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Person, Especially Women and Children (also known as the Palermo Protocol).

Methodology

The research methods for the project involved a combination of questionnaires, interviews, media monitoring and case studies analysis. One

hundred questionnaires were sent out to professionals and forty-six completed questionnaires were returned. Semi-structured interviews were conducted with fifteen migrant workers (ten men and five women from Bangladesh, Morocco, Pakistan, China, Romania, Estonia and the Ukraine) and five professionals (two Case workers from a migrant support organisation, a community development worker in an area with a large migrant workforce, an employer from the Sikh community and a trade union official). The media monitoring was conducted to obtain a better understanding on whether and how migrant workers are portrayed in printed media in relation to the key topics of immigration, labour market and crime, and in relation to crime, it also sought to see whether or not any migrant workers are recognised as possibly being trafficked. Three case studies were analysed in detail in order to provide an overview of the human and labour rights abuses the person experienced, highlight the complexity of the situation and identify the relevant international treaties, legislation, addressing the exploitation.

Results

It is important to note that this small-scale research project does not claim to be definitive or exhaustive and much work remains to be done to address the problem. Nevertheless, from the research a profile of trafficked victims and their experiences in Ireland is emerging. The problem exists in certain sectors of the restaurant industry, agriculture, domestic workers and construction industry. Motivations for migrating varied according to the country of origin and personal circumstances but overall a dream to secure a better future for themselves and their families created the motivation to migrate. Although most of the workers were coming to jobs that would be categorised as 'low skilled' this does not mean that they were unqualified, many of them had post secondary-level education. The chance of earning good money means they were prepared to work in jobs that they were clearly overqualified for.

The analysis highlights the complexities of the experiences of migrant workers trafficked for

forced labour in industries other than the sex industry. While the definition adopted in the United Nations' Palermo Protocol Trafficking in Persons (2000) makes trafficking in persons an international criminal offence, there are still difficulties in defining trafficking and conflicting interpretations of what does and does not constitute trafficking still exist. The findings show that physical abuse, confinement, coercion, deception and exploitation can and do occur to people trafficked for forced labour. However, it was also found that in many cases of trafficking coercion is subtle, involving late payment of wages, confiscation of papers, constant threat of not renewing work permits or threats of denunciation to the authorities followed by deportation. Furthermore, the findings show that trafficked people frequently enter the state legally and many of the victims do not identify themselves as trafficked.

However, until more trafficked persons come to the attention of the authorities and others, it will remain difficult to determine the prevalence of trafficking in Ireland or to definitively profile who is trafficked and their conditions of captivity.

But no presentation of facts and figures can convey the horror of the stark reality of the trapped individual. A common thread between all those interviewed is fear; fear of their employers and fear of officialdom. In the case of employers the fear is not only for themselves but can also be for their families back home. Fear of officialdom in many cases can be a culturally related issue but it is primarily a fear of being regarded as illegal with the ultimate sanction of being deported.

The majority of migrants interviewed expressed dismay at what they saw as the States unwillingness to protect them. The Department of Justice, Equality and Law Reform are preparing legislation that will transpose, into Irish law, EU directives in relation to trafficking, including trafficking for forced labour but they are not in a position to say when the legislation will be enacted. Consequently, in the absence of formalised procedures or structured approach the victims can be viewed, by State agencies, as undocumented workers and are in danger of being deported to their country of origin. Furthermore, as undocumented workers they have to live without access to social protection such as social welfare, housing etc.

The problem is therefore, not just one of punishing the traffickers; it is also a matter of protecting and assisting the victims. The previous UN High Commissioner for Human Rights Mary Robinson emphasised the need to place human rights at the centre of any measures taken to combat trafficking. But under the terms of the Palermo Protocol states are not obligated but encouraged to protect and assist victims. It is vital that the human rights elements of the protocol are implemented by the Irish State if the problem of trafficking is to be addressed and the needs of trafficked victims are to be met.

Appendix 7

Czech Report Summary

Trafficking in Human Beings and Forced Labour or Labour Exploitation in the Czech Republic

Aim

Over the last six months of 2005 La Strada Czech Republic conducted a research into human trafficking for forced and exploitative labour in the Czech Republic. So far, the available information in this area has almost exclusively covered sex trafficking. Being one of the first in the country this research focused on gathering the basic information on forced and exploitative labour and trafficking for forced and exploitative labour in sectors other than sex industry.

Methods

In the course of the research 25 professionals likely to come in contact with trafficked persons or those working on policies relating to human trafficking and migration generally were interviewed through questionnaires or in person. There were an additional 19 interviews conducted with migrant workers supported by La Strada's ten year experience in providing social assistance to trafficked persons in the Czech Republic. Finally, a media monitoring of three monthly, weekly and daily periodicals, carried out over the period of six months, fed into the research findings.

Findings

The sectors with highest incidence of forced or exploitative labour include the construction industry, agriculture and service sector including in particular cleaning, sales and waiting and kitchen work in restaurants and bistros. Work in storages, hospitals, households, workshops, sweatshops, forced begging or coercion to commit crime were repeatedly mentioned to appear in relation to forced and exploitative labour. There is an apparent gender division in the sectors. Men work mainly in construction and forestry. Women are often found in agriculture, textile industry and in cleaning and domestic work. Both women and men work in bistros and restaurants or as sales personnel. A very important finding was that it was impossible to thoroughly separate forced labour in prostitution and in other sectors. Forced labour in both areas was combined in a story of one person as subsequent experiences or as parallel double

exploitation.

Abuse of vulnerability, dependence or distress is a form of coercion that was almost universally present among forced and exploited labour cases dealt with within the research. With regard to forced labour indicators as defined by the ILO²⁶, the most frequent were withholding of wages and documents. Violence or threats of violence, threats of denunciation to the authorities and restriction of freedom appeared often. The least mentioned form of coercion was debt bondage. The research has revealed a certain sequence in using of different forms of coercion. The first one would be withholding of wages or documents and only if these forms of coercion failed, others were applied, such as violence or threats of violence or threats of denunciation to the authorities or restriction of freedom. There also appears to be differences between the types of coercion generally applied in conditions of forced prostitution and in other sectors. While in prostitution restriction of freedom and violence were more frequent, in other sectors withholding of wages and documents as well as threats of denunciation to the authorities were used most often.

The most important regions of origin of persons exploited for labour in the Czech Republic are former Soviet Union, in particular Ukraine, and Asia, especially Vietnam. Other countries repeatedly mentioned in this context were Moldova, Belarus, Kazakhstan, Mongolia, China and less frequently, Georgia and Chechnya. This reveals a very important finding that people trafficked or exploited in forced labour in the Czech Republic were never Czech nationals or foreigners from more developed countries. They came exclusively from countries whose nationals' residence in the country is subject to different restrictions and limitations resulting in their insecure residence status. The situation is clearly illustrated by the words of one of the professionals interviewed who said that "the undocumented status is the whip that traffickers/employers use to exercise control over

migrant workers”.

Conclusion

Exploitation of migrants is closely connected to an inability to protect their rights given their insecure residence status. In general, among national authorities there is more focus on punishment of these people for violation of the immigration laws than on protection of their rights. Irrespective of how they arrived in an exploitative situation, it is important to identify them and to prosecute those who subjected them to exploitation. However, it is equally if not more important to limit opportunities for exploitation by giving migrant workers a real chance to protect their rights in the same way such protection is available to the nationals.

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Anti-Slavery International, founded in 1839, is committed to eliminating all forms of slavery throughout the world. Slavery, servitude and forced labour are violations of individual freedoms, which deny millions of people their basic dignity and fundamental human rights. Anti-Slavery International works to end these abuses by exposing current cases of slavery, campaigning for its eradication, supporting the initiatives of local organisations to release people, and pressing for more effective implementation of international laws against slavery. For further information see: www.antislavery.org

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