

REPORT OF THE DIRECTOR-GENERAL

A global alliance against forced labour

Global Report under the Follow-up to the ILO Declaration
on Fundamental Principles and Rights at Work
2005

INTERNATIONAL LABOUR CONFERENCE
93rd Session 2005

Report I (B)

INTERNATIONAL LABOUR OFFICE
GENEVA

This Report may also be consulted on the ILO Internet site (www.ilo.org/declaration).

ISBN 92-2-115360-6
ISSN 0074-6681

First published 2005

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Introduction

1. Four years ago, the first Global Report on forced labour drew attention to the gravity of the problems of forced labour in the modern world, with “ugly new faces” such as human trafficking emerging alongside the older forms.¹ Since then the ILO has sought to mobilize world opinion behind the goal of a fair globalization, in which people come first, with full respect for the core labour standards embodied in the ILO Declaration on Fundamental Principles and Rights at Work adopted in 1998. Tackling forced labour head-on is one very practical way of contributing to achievement of this global goal.

2. On the basic characteristics of contemporary forced labour, much has been learned over the period. Importantly, the ILO is now less alone in calling attention to new forms of forced labour and slavery-like practices. There are encouraging signs of commitment, by ILO member States, employers’ and workers’ organizations, and the international community, to addressing the problems. Important developments have included the first national action plans against forced and bonded labour, for example in Brazil and Pakistan. There has been growing commitment to the adoption of new laws or policies on the subject, for example in some east Asian transition economies. There are several regional action plans or declarations against human trafficking, which increasingly recognize its forced labour and child labour dimensions. And following the recent entry into force of the United Nations Convention against Transnational Organized Crime, together with its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Trafficking Protocol, also known as the Palermo Protocol), a number of States have now begun to adopt new legislation or amend their criminal law in order to address the forced labour dimensions of trafficking.

3. These are all significant developments. And yet, in terms of real knowledge and awareness of modern forced labour, we seem still to see only the tip of a disturbing iceberg. The warning signals sounded four years ago seem to be even more justified today. Forced labour is present in some form on all continents, in almost all countries, and in every kind of economy. There are persistent cases of what may be termed “traditional” forms of forced labour. These include deeply entrenched bonded labour systems in parts of South Asia, debt bondage affecting mainly indigenous peoples in parts of Latin America, and the residual slavery-related practices most evident today in West Africa. There are also various forms of forced labour exacted by the State for either economic or political purposes. Forced labour today also affects sizeable numbers of migrant workers who are transported away from their countries or communities of origin.

4. Older forms of coercion and compulsion are transmuting into newer ones. The bonded labour systems of South Asia remain very much in evidence today, and account for the greatest number of forced labourers in the contemporary world. But these systems have changed over the past three or four decades. They now pervade different sectors of the informal economy, as well as the agricultural sector, where the lion’s share of bonded labour was formerly to be found. Trafficking in human beings has also taken on new forms and dimensions, linked to recent developments in technology, transportation and transnational organized crime.

5. Forced labour is an emotive subject, and governments are sometimes reluctant to probe into and recognize its existence within their national borders. It is far from easy to generate and sustain the political will to instigate the detailed investigations needed to

1. ILO: *Stopping forced labour*, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I(B), International Labour Conference, 89th Session, Geneva, 2001, p. 1.

identify forced labour practices and confront them. The victims themselves may be reluctant to come forward to provide testimony, fearing not only reprisals from their exploiters but perhaps also action against them by immigration and other law enforcement authorities.

6. To move forward effectively – in terms of law, policy, or practical action – it is essential to understand the salient features of much contemporary forced labour. First, it is most frequently exacted by private agents rather than directly by the State. Second, induced indebtedness is a key instrument of coercion, backed by the threat of violence or other sanctions against forced workers or their families. Third, the precarious legal status of millions of irregular migrant women and men makes them particularly vulnerable to coercion, because of the additional and ever-present threat of denunciation to the authorities. Victims can be faced with the difficult choice between accepting highly exploitative conditions of work and running the risk of deportation to their home countries if they seek redress. Fourth, a growing body of research, in particular on the situation of the forced labour victims of trafficking in industrialized destination countries, has served to identify a serious legislative gap which makes it difficult to move forward against the hidden and often subtle forms of coercion in the private economy.

7. Forced labour must be punishable as a crime. This is, in fact, almost universally the case today. The vast majority of ILO member States have ratified one or other of its two forced labour Conventions, and usually both. There tend to be outright prohibitions of forced labour, along with slavery and slavery-like practices, in national constitutions, in criminal codes, and sometimes also in labour codes. Penalties may be established by law for exacting forced labour (although these can be very small). Yet two problems seem to be quite widespread throughout the world. First, with very few exceptions, forced labour is not defined in any detail, making it difficult for law enforcement agents to identify and prosecute the offence. Second, and in consequence of this, there have been very few prosecutions for forced labour offences anywhere in the world. A vicious cycle is thereby established: no clear legislation, little or no resources for prosecutions, limited awareness or publicity, thus no pressure for clear legislation, and so on.

8. On the other hand, member States need to do more than merely criminalize forced labour. They also need to address the structural concerns, including policy and labour market failures, that give rise to forced labour in the first place. Labour market regulations or migration policies should be designed in such a way as to reduce the risk of workers getting trapped in forced labour situations. Such “softer” promotional measures can go a long way towards eradicating the conditions that ultimately lead to forced labour.

9. This second Global Report on forced labour aims to do the following:

- First, given that the term “forced labour” is often still widely misunderstood, it explains how the concept is defined in international law and discusses some parameters for identifying contemporary forced labour situations in practice.
- Second, it provides the first minimum global estimate of the numbers of people in forced labour by an international organization, broken down by geographical region and by form of forced labour.
- Third, it gives a dynamic global picture of contemporary patterns of forced labour, and of action to eradicate it. This part opens with a critical review of legal frameworks against forced labour, and of law enforcement in practice. Successive sections then examine in greater depth three major categories of forced labour today: that imposed by the State itself for economic, political or other purposes; that linked to poverty and discrimination, primarily in developing countries; and lastly the forced labour outcomes of migration and trafficking of vulnerable workers across the world. The analysis can point to a considerable amount of good practice and commitment to move forward on this sensitive topic. The last section discusses the extent to which modern forced labour is woven into the fabric of a globalized world.
- Fourth, the Report reviews the ILO’s assistance to member States for the eradication of forced labour – some of it implemented together with other international organizations. This review can fortunately strike a more positive note than the first Global Report on the subject. The creation of a Special Action Programme to Combat Forced Labour has helped to galvanize the ILO’s efforts, to place the issues more firmly on the radar screen of the ILO’s constituents as well as international partners, and to initiate new operational programmes. Moreover, a growing number of ILO activities continue to address the specific problem of child trafficking.
- Lastly, this Report looks to the future. The next four years will be of critical importance for facing up to contemporary forced labour. Important groundwork has already been done, and models for integrated action against forced labour at the national level are now starting to emerge. A key message of this Report is that, while the eradication of forced labour is a tremendous challenge to all, it is nonetheless a manageable one. With courage and determination to stand up to crime and corruption, and through the allocation of resources to back this up, member States and the international community can make real and measurable headway in eradicating the different forms of forced labour documented in the Report.

10. Above all, member States that do show the commitment to tackle forced labour problems – to adopt the appropriate law and policy framework, to document the incidence of forced labour, and to proceed with multiple action against it – need to be rewarded, and in no way criticized or penalized. In

this spirit of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, the stage can be set for stepping up action against a social evil which has no place in the modern world. To achieve a fair globalization, and decent work for all, it is imperative to eradicate forced labour.





PART I

Understanding and measuring forced labour today

1. Forced labour: Definitions and concepts

11. Since the last Global Report on the subject, there has been greater realization that forced labour in its different forms can pervade all societies, whether in developing or industrialized countries, and is by no means limited to a few pockets around the globe. Yet the very concept of forced labour, as set out in the ILO standards on the subject, is still not well understood. In many quarters the term continues to be associated mainly with the forced labour practices of totalitarian regimes: the flagrant abuses of Hitler's Germany, Stalin's Soviet Union or Pol Pot's Cambodia. At the other end of the spectrum, such terms as “modern slavery”, “slavery-like practices” and “forced labour” can be used rather loosely to refer to poor and insalubrious working conditions, including very low wages. Indeed, some national legislation has identified the late payment of wages, or remuneration below the legal minimum wage, as at least one element of a forced labour situation.

Defining characteristics of forced labour

12. In its original Convention on the subject, the Forced Labour Convention, 1930 (No. 29), the ILO defines forced labour for the purposes of international law as “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 2(1)).¹ The other fundamental ILO instrument, the Abolition of Forced Labour Convention, 1957 (No. 105), specifies that forced labour can never be used for the purpose of economic development or as a means of political education, discrimination, labour discipline, or punishment for having participated in strikes (Article 1). This Convention clarifies

certain purposes for which forced labour can *never* be imposed, but does not alter the basic definition in international law.

13. Forced labour cannot be equated simply with low wages or poor working conditions. Nor does it cover situations of pure economic necessity, as when a worker feels unable to leave a job because of the real or perceived absence of employment alternatives. Forced labour represents a severe violation of human rights and restriction of human freedom, as defined in the ILO Conventions on the subject and in other related international instruments on slavery, practices similar to slavery, debt bondage or serfdom.

14. The ILO's definition of forced labour comprises two basic elements: the work or service is exacted under the menace of a penalty and it is undertaken involuntarily. The work of the ILO supervisory bodies over some 75 years has served to clarify both of these elements. The penalty does not need to be in the form of penal sanctions, but may also take the form of a loss of rights and privileges. Moreover, the menace of a penalty can take multiple different forms. Arguably, its most extreme form involves physical violence or restraint, or even death threats addressed to the victim or relatives. There can also be subtler forms of menace, sometimes of a psychological nature. Situations examined by the ILO have included threats to denounce victims to the police or immigration authorities when their employment status is illegal, or denunciation to village elders in the case of girls forced to prostitute themselves in distant cities. Other penalties can be of a financial nature, including economic penalties linked to debts, the non-payment of wages, or the loss of wages accompanied by threats of dismissal if workers refuse to do overtime beyond the scope of

1. The Convention provides for certain exceptions, in particular with regard to military service for work of purely military character, normal civic obligations, work of prisoners convicted in a court of law and working under the control of a public authority, work in emergency cases such as wars or calamities, and minor communal services (Article 2(2)).

Box 1.1.
Identifying forced labour in practice

Lack of consent to (involuntary nature of) work (the “route into” forced labour)

- Birth/descent into “slave” or bonded status
- Physical abduction or kidnapping
- Sale of person into the ownership of another
- Physical confinement in the work location – in prison or in private detention
- Psychological compulsion, i.e. an order to work, backed up by a credible threat of a penalty for non-compliance
- Induced indebtedness (by falsification of accounts, inflated prices, reduced value of goods or services produced, excessive interest charges, etc.)
- Deception or false promises about types and terms of work
- Withholding and non-payment of wages
- Retention of identity documents or other valuable personal possessions

Menace of a penalty (the means of keeping someone in forced labour)

Actual presence or credible threat of:

- Physical violence against worker or family or close associates
- Sexual violence
- (Threat of) supernatural retaliation
- Imprisonment or other physical confinement
- Financial penalties
- Denunciation to authorities (police, immigration, etc.) and deportation
- Dismissal from current employment
- Exclusion from future employment
- Exclusion from community and social life
- Removal of rights or privileges
- Deprivation of food, shelter or other necessities
- Shift to even worse working conditions
- Loss of social status

their contract or of national law. Employers sometimes also require workers to hand over their identity papers, and may use the threat of confiscation of these documents in order to exact forced labour.

15. As regards freedom of choice, the ILO supervisory bodies have touched on a range of aspects including: the form and subject matter of consent; the role of external constraints or indirect coercion; and the possibility of revoking freely given consent. Here too, there can be many subtle forms of coercion. Many victims enter forced labour situations initially of their own accord, albeit through fraud and deception, only to discover later that they are not free to withdraw their labour. They are subsequently unable to leave their work owing to legal, physical or psychological coercion. Initial consent may be considered irrelevant when deception or fraud has been used to obtain it. Box 1.1 presents the main elements or characteristics that can be used to identify forced labour situations in practice.

16. Forced labour situations may be particularly widespread in certain economic activities or industries which lend themselves to abusive recruitment and employment practices. However, a forced labour situation is determined by the nature of the relationship between a person and an “employer”, and not by the type of activity performed, however hard or hazardous the conditions of work may be. Nor is the legality or illegality under national law of the activity

relevant to determining whether or not the work is forced. A woman forced into prostitution is in a forced labour situation because of the involuntary nature of the work and the menace under which she is working, irrespective of the legality or illegality of that particular activity. Similarly, an activity does not need to be recognized officially as an “economic activity” for it to fall potentially within the ambit of “forced labour”. For example, a child or adult beggar under coercion will be considered as being in forced labour.

17. Forced labour is also one of the worst forms of child labour, as defined in the ILO’s Worst Forms of Child Labour Convention, 1999 (No. 182). Child labour amounts to forced labour not only when children are forced, as individuals in their own right, by a third party to work under the menace of a penalty, but also when a child’s work is included within the forced labour provided by the family as a whole.

Forced labour and trafficking in legislation

18. The rising global concern with trafficking in persons and its forced labour outcomes has prompted member States to give attention to the concept and definition of forced labour in their criminal or other legislation. A basic definition of trafficking in persons, now enjoying almost universal acceptance, is contained in the Trafficking Protocol of 2000.² This instrument aims inter alia to distinguish the offence

2. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

of *trafficking* from that of *smuggling*. Trafficking refers to the recruitment, transport, transfer, harbouring or receipt of a person by such means as threat or use of force or other forms of coercion, of abduction, of fraud or deception “for the purpose of exploitation”. Exploitation includes, as 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” (Article 3(a) of the Protocol). Each State Party is required to adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in this definitional Article (Article 5(1)).

19. The entry into force of the Trafficking Protocol, in December 2003, has posed some important challenges for national governments and legislatures. While the vast majority of ILO member States have ratified one or both of the ILO’s Conventions on forced labour, many have not provided for the specific offence of forced labour in their criminal law, although many have included it in their labour law. The law may also be couched in very general terms rather than identifying the various ways in which forced labour could be exacted by private actors, or it may fail to provide for appropriate penalties for using different forms of forced labour. In some cases this may reflect a continued tendency to equate forced labour with a practice imposed by the State, rather than addressing contemporary situations where most forced labour is in the private economy.

20. These developments thus pose conceptual challenges, as well as challenges for law enforcement. They introduce into international law the concept of *exploitation* – broken down broadly into labour and sexual exploitation – regarding which there has been limited juridical precedent. And they require States Parties, several of which have hitherto adopted anti-trafficking laws which cover only the sexual exploitation of women and children, to adopt or amend their laws in order to have a broader concept of trafficking and exploitation.

21. The implications will be examined further in subsequent chapters. Suffice it to say here, first, that the global movement against trafficking has certainly given an impetus to the understanding of, and action against, forced labour; and second, that it may potentially present law- and policy-makers with an option. Are the abusive recruitment and employment practices to which migrant workers are particularly vulnerable best dealt with through providing for the offence of *forced labour* or that of *trafficking* in domestic legislation? And when, in fact, does a work situation come within the scope of these concepts?

22. These are not merely academic questions, and they can have a significant impact on the way in which States identify and protect the victims of

abusive coercion, punish offenders, and deal with structural factors necessary for effective prevention and eradication of forced labour. Indeed, the report of an Experts Group on Trafficking in Human Beings, convened by the European Union in 2003, has identified forced labour exploitation as the “crucial element” of the Trafficking Protocol. To counter trafficking effectively, as this group observes, “policy interventions should focus on the forced labour and services, including forced sexual services, slavery and slavery-like outcomes of trafficking – no matter how people arrive in these conditions – rather than (or in addition to) the mechanisms of trafficking itself. States should criminalize any exploitation of human beings under forced labour, slavery or slavery-like conditions, in line with the major human rights treaties that prohibit [their] use”.³

23. At the present time the global momentum is apparently towards establishing the criminal offence of trafficking, making provision under such laws for identifying and prosecuting the offence of exacting forced labour, among others. This can have a positive impact in combating the coercive exploitation of migrant workers, provided that member States legislate against trafficking in its broadest sense, first giving full attention to the forced labour dimensions in addition to sexual exploitation and, second, allocating sufficient resources to law enforcement measures in this regard. At the same time the impetus for new anti-trafficking laws should not be a reason for not legislating against forced labour as a specific criminal offence. As will be shown later, by no means all the forced labour practices to which even migrant workers are subjected in destination countries are necessarily a result of trafficking. And not only migrants are the victims of forced labour in the destination countries. There is therefore a need for laws against both forced labour and trafficking.

24. While the Trafficking Protocol draws certain distinctions between *trafficking for sexual exploitation* on the one hand, and *trafficking for forced labour or services* (and also slavery, slavery-like practices and servitude) on the other, this should not be taken to imply that coercive sexual exploitation does not constitute forced labour. Indeed, the ILO supervisory bodies have regularly dealt with forced prostitution and sexual exploitation under Convention No. 29.

Forced labour and slavery

25. What are the linkages between forced labour, slavery and slavery-like practices, and servitude? To what extent are these the same or different forms of human rights abuse? Our first Global Report on forced labour reviewed in some detail the historical circumstances in which the ILO’s two main instruments on forced labour, and the main United Nations

3. European Commission: *Report of the Experts Group on Trafficking in Human Beings* (Brussels, 22 Dec. 2004), p. 53.

instruments on slavery and slavery-like practices, were adopted.⁴ This analysis will not be repeated in the present Report. Some comments are needed, however, to prepare the ground for the examination of different forms of forced labour in later chapters.

26. Slavery is one form of forced labour. It involves absolute control of one person over another, or perhaps one group of persons by another social group. Slavery is defined in the first international instrument on the subject in 1926 as the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised (Article 1(1)).⁵ A person in a situation of slavery will certainly be forced to work, but this is not the only defining feature of the relationship. Moreover, the situation is a permanent one, often based on descent, rather than one with a fixed duration. In this first instrument, moreover, adopted at a time when forced labour was widely exacted by colonial powers, contracting parties were required to “take all necessary measures to prevent compulsory or forced labour from developing into conditions analogous to slavery” (Article 5). ILO Convention No. 29, adopted four years later, prohibited forced labour generally, including but not limited to slavery.

27. After that came the mass imposition of forced labour for ideological or political or other purposes, in particular during and after the Second World War. With the world’s conscience aroused, the ILO adopted Convention No. 105 of 1957, with a primary focus on state-imposed forced labour. In the meantime, the United Nations adopted its Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery, which focuses more on structural issues such as debt bondage and serfdom, then widely prevalent in developing countries, but which many States were determined to eradicate through land, tenancy and other social reforms. These “slavery-like practices” clearly encompass situations where individuals or social groups are forced to work for others. There is an evident overlap between forced labour situations and slavery-like practices. Debt bondage or “debt slavery” is a particularly prominent feature of contemporary forced labour situations.

National terminology referring to forced labour

28. At the national level, a number of different terms can be used to encapsulate the different forms of coercion that these countries seek to eradicate. In the South Asian countries of India, Pakistan and to some extent Nepal, there are quite complex definitions of “bonded labour” in the laws intended to eradicate this

particular coercive practice. Most bonded labourers would fall within the ILO’s own definition of forced labour, but there are arguably certain exceptions. In Brazil, the preferred term for the coercive recruitment and employment practices in remote areas is “slave labour”; all situations covered by this term would seem to fall within the scope of the ILO’s forced labour Conventions.

A universal concept with national variations

29. An essential principle underpinning action against forced labour is that this practice must be treated as a serious crime. As clearly established in the ILO’s first Convention on the subject, the illegal exaction of forced labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying the Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced (Article 25). And yet a basic fact needs to be confronted. Forced labour may be recognized almost universally as a crime; however, it is hardly ever prosecuted, in part because of the difficulties in articulating the various offences that constitute forced labour in national laws and regulations.

30. The challenge is to have a universal concept, recognizing some fundamental principles of freedom at work and safeguards against coercion, while at the same time permitting individual countries to legislate on the issues of particular concern to them in the light of their economic, social and cultural characteristics. In all societies there is a risk of flagrant forms of forced labour, where both the individual victims and the individual perpetrators of forced labour can be identified. In such cases the offenders must be punished as criminals with the full force of the law. The victims must be assisted through law, policy and programmes, and provided with the appropriate rehabilitation and work with adequate remuneration.

31. And yet, the more the ILO has expanded its research, analysis and awareness-raising on forced labour concerns in different regions of the world, the more it has had to face up to some basic facts. There is a broad spectrum of working conditions and practices, ranging from extreme exploitation including forced labour at one end, to decent work and the full application of labour standards at the other. Within that part of the spectrum in which forced labour conditions may be found, the line dividing forced labour in the strict legal sense of the term from extremely poor working conditions can at times be very difficult to distinguish. Even within that area legally defined as forced labour, there are multiple ways in which employers can deprive workers of access to full enjoyment of their human and labour rights, and particularly to

4. ILO: *Stopping forced labour*, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I(B), International Labour Conference, 89th Session, Geneva, 2001 (especially pp. 9-11).

5. League of Nations Slavery Convention of 1926.

minimum or market wages, through applying a range of coercive and deceptive mechanisms. This applies in industrialized countries, developing countries and transition economies alike. Appropriate remedies will vary depending on the nature, and perhaps also the severity, of the coercive mechanisms being applied. A full legal examination of these issues – as to the extent to which these often subtle forms of coercion or compulsion give rise to forced labour in the sense of the ILO Conventions on the subject – belongs to the competence of the ILO supervisory bodies. A General Survey on the forced labour instruments will be prepared for discussion at the 2007 session of the International Labour Conference.

Traditional and newer patterns of forced labour

32. The questions of whether and to what extent new patterns of forced labour are emerging today are very pertinent. One issue is whether the individuals and social groups most vulnerable to forced labour are different today from in the past. A second question is whether the mechanisms of coercion are changing. Certainly, there is overwhelming evidence that women, and also children, tend to be most vulnerable to the forced labour outcomes of human trafficking, and that new forms of coercion are being applied by their traffickers.

33. The distinction between “older” and “newer” patterns of forced labour is certainly not a watertight one. The actual forms of forced labour, in terms of the ILO definition, may show little variation. And it is argued in this Report that older manifestations of forced labour transmute into newer ones, as in the case of bonded labour in Asia, which is now affecting new industries and sectors, and sometimes different population groups including women and internal migrant workers. In this regard there can be a clear overlap between more ancient bonded labour systems and more recent manifestations of human trafficking.

34. The more “traditional” forms tend nevertheless to be embedded in older beliefs, customs or agrarian and other production structures, sometimes as a legacy of colonialism. They can also result from long-standing patterns of discrimination against vul-

nerable groups, whether tribal and caste minorities in Asia, or indigenous peoples of Latin America. Such traditional forms also exist in those parts of Africa where slavery and slave raiding have long been documented, and where the legacy of traditional slavery can involve continued discrimination and coercive employment practices.

35. The “modern” forms, as they relate to globalization and recent migratory trends, may be linked more blatantly to the search for unlawful financial profits by a range of actors, some of them involved in organized crime. Modern forms are global, being found in all regions. In industrialized countries, cases of migrant workers in debt bondage have been documented in agriculture and in other labour-intensive sectors, including construction, garments, packaging and food processing. A particularly egregious example is the trafficking of children by criminal networks for forced begging, drug dealing or sexual exploitation. In the transition economies of eastern and south-eastern Europe, forced economic exploitation has been observed among migrant workers from the Transcaucasus and central Asia; this also occurs in the agriculture and mines of central Asia. Characteristics of today’s compulsory labour situations include restrictions on freedom of movement, removal of identity documents, and threats of denouncing to immigration authorities any migrants who complain about substandard living and working conditions.

36. In developing countries one can also detect more updated features of forced labour situations today, alongside the older ones. These include internal as well as cross-border trafficking, with a particularly serious incidence of child trafficking in certain regions, and even forced overtime accompanied by dismissal threats. A long-standing problem involving new forms of coercion is the treatment of domestic workers. Child and adult domestics, many of them moving from rural areas to the cities of developing countries, have long experienced forced labour abuse at the hands of local employers. Today the growing numbers of migrant domestics to the Middle East and elsewhere, who hand over identity documents and find themselves tied to one household with restricted freedom of movement, are highly vulnerable to forced labour.

2. A minimum estimate of forced labour in the world

37. Today, at least 12.3 million people are victims of forced labour worldwide. Of these, 9.8 million are exploited by private agents, including more than 2.4 million in forced labour as a result of human trafficking. Another 2.5 million are forced to work by the State or by rebel military groups.

38. These are the main findings of an ILO estimate carried out specifically for this Report. In the absence of reliable national estimates, the ILO has developed its own methodology based on a large number of reported cases, or “traces”, of forced labour. The result is a minimum estimate which provides a lower limit on the total number of forced labour victims in the world. This method does not generate reliable country estimates, which can only be obtained through systematic and in-depth national field studies.⁶

Typology of forced labour

39. The first Global Report on forced labour aimed to develop an initial typology. The categories were as follows: slavery and abductions; compulsory participation in public works; forced labour in agriculture and remote rural areas; domestic workers in forced labour situations; bonded labour; forced labour exacted by the military (with particular reference to Myanmar); forced labour related to trafficking in persons; and prison-linked forced labour. This initial typology referred either to the *sectors* in which the forced labour situations could occur (such as agriculture or domestic work), or to the broad *modalities* by which persons could end up in forced labour situations (such as enslavement, trafficking or debt bondage).

40. For the purpose of the global estimate, forced labour situations are grouped into three main types (see figure 1.1):

- *Forced labour imposed by the State* includes three main categories described in the first Global Report on the subject in 2001, namely forced labour exacted by the military, compulsory participation in public works, and forced prison labour. This last category includes not only forced labour camps but also work imposed in modern semi-privatized or fully privatized prisons. For practical purposes, forced labour imposed by rebel groups is also included in this category.

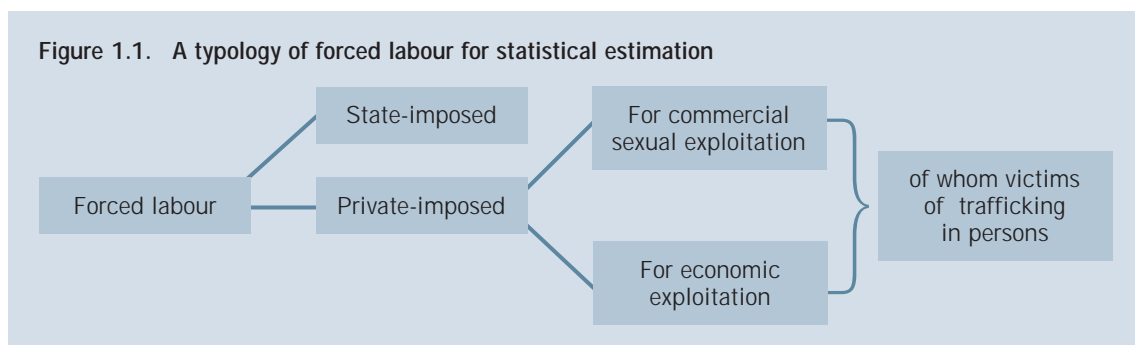
- *Forced labour imposed by private agents for commercial sexual exploitation* includes women and men who have involuntarily entered prostitution or other forms of commercial sexual activities, or who have entered prostitution voluntarily but who cannot leave. It also includes all children who are forced into commercial sexual activities.

- *Forced labour imposed by private agents for economic exploitation* comprises all forced labour imposed by private agents other than for commercial sexual exploitation. It includes, among other things, bonded labour, forced domestic work, or forced labour in agriculture and remote rural areas.

41. In addition to this broad typology, a distinction was drawn between forced labourers who were trafficked and those who were not trafficked.

42. A more refined typology, with more categories, would have been desirable but posed too many difficulties at this stage. First, there is a general scarcity of data on forced labour. Thus, a large number of categories would have imposed an excessive burden on data requirements (more categories would have meant less data in each category). Second, whatever quantitative information is available is not sufficiently detailed. In many cases, the empirical information relates to aggregate numbers covering more than one economic sector or activity. There is no objective basis so far to guide the division of the aggregates into sectors of activity.

Figure 1.1. A typology of forced labour for statistical estimation



6. The difficulty of obtaining precise, reliable statistics was also pointed out in a report of the United States National Academy of Sciences: *Monitoring international labor standards: Techniques and sources of information* (Washington, DC, The National Academies Press, 2004).

Box 1.2.
Methodology of the ILO minimum estimate of forced labour

In the absence of reliable and widely accepted national estimates, the ILO methodology relies on a particular statistical method described as *double sampling* of reported cases of forced labour. This sampling procedure, called “capture–recapture” in the statistical literature, was originally designed for estimating the abundance of wildlife, but is now also being applied to many types of elusive human populations, including numbers of victims of war crimes. In its simplest form, the method consists of drawing two independent lists (capture and recapture), each representing a random sample of the population to be estimated. The number of persons in each of the two lists is then counted, as well as the number of persons found in both lists. The resulting three numbers provide the basis for estimating the size of the target population as a whole.

In the present context, the double-sampling procedure was implemented by the ILO engaging two teams of researchers, who worked independently of each other, with equal workloads and in similar environments. The two teams were trained to produce two independent lists of *validated reports of forced labour cases*, using a wide range of ILO and non-ILO sources (including reports by international organizations, governments, police, trade unions, local and international non-governmental organizations (NGOs), academia, the media, and others). A validated reported case of forced labour was defined as a piece of information on a page or a screen of an original source containing the following four elements: an activity recognized as a form of forced labour in the sense of ILO Convention No. 29 or No. 105; a numerical figure indicating the number of identified or identifiable persons involved; a geographical area where the activity is reported to have taken place; and a corresponding date or time interval falling within the period 1995–2004.

The two resulting lists were stored in separate databases, each organized by geographical region and broad form of forced labour. For each category, the number of validated reported cases of forced labour found by each team was counted, as well as the number of cases found by both teams. These numbers were then used to calculate the global number of reported cases of forced labour over the ten-year reference period by category. It has been shown that, under certain assumptions, this number, multiplied by the average number of victims per case, gives an estimate of the total number of persons in forced labour at a given time, including non-reported as well as reported cases.

It has to be underlined that this methodology leads to a strict minimum estimate of forced labour for a number of reasons, in particular because of the restriction to credible sources and validated data items. The seven languages known by the researchers have also set limits on their search for geographically dispersed sources. Finally, throughout the study, in general, every effort was made to err on the side of caution.

Source: P. Belsler; M. de Cock; F. Mehran: *ILO minimum estimation of forced labour in the world* (forthcoming). See also S. K. Thompson: *Sampling*, Ch. 18: “Capture–recapture sampling” (New York, John Wiley and Sons, 1992).

Measuring forced labour

43. The usual method of deriving global estimates is to aggregate national estimates into regional and then global figures. This direct aggregation method is often preceded by preliminary steps to harmonize differences in national concepts and definitions, and to impute for possible missing data. This approach has been adopted in broad terms by the ILO since the 1970s to derive global estimates and projections of the economically active population and more recently to calculate global and regional estimates of child labour and unemployment.

44. In the case of forced labour, available national estimates are often disparate, concerning one or two particular forms of forced labour, generally calculated on the basis of secondary information. The definition and methodology used for forced labour estimates are in most cases unspecified, and in some cases even the date or the time period to which they

refer is unclear. They are often simply derived by applying a fraction to a broader estimate, for example assuming that forced commercial sexual exploitation concerns 10 per cent of the total number of people in prostitution. Thus, reliable and widely accepted national estimates based on specialized data collection instruments, directly surveying the victims themselves, have yet to be developed.

45. In the absence of solid and widely accepted national estimates, the ILO decided to develop its own methodology relying on traces of forced labour, and analysing and counting validated reports of forced labour cases. The methodology is based on what is known as “double sampling” of reported cases of forced labour, and leads to minimum estimates providing lower bounds on the total number of victims of forced labour in the world. The technical aspects of the methodology are described briefly in box 1.2 and explained in more detail in a separate document.⁷

7. P. Belsler et al., *ILO minimum estimation of forced labour in the world*, op. cit.

A global estimate of forced labour

46. The ILO global estimate of the number of victims of forced labour is 12.3 million.

47. This number should be interpreted as the estimated global minimum number of persons in forced labour, in the sense of ILO Conventions Nos. 29 and 105, at the present time. Relating this estimate to the current world population,⁸ it can be calculated that there are at least two victims of forced labour per thousand inhabitants. In relation to the total world labour force,⁹ the minimum estimate corresponds to about four persons per thousand workers. This number is significant but it does not present an insurmountable problem if the will to solve it exists.

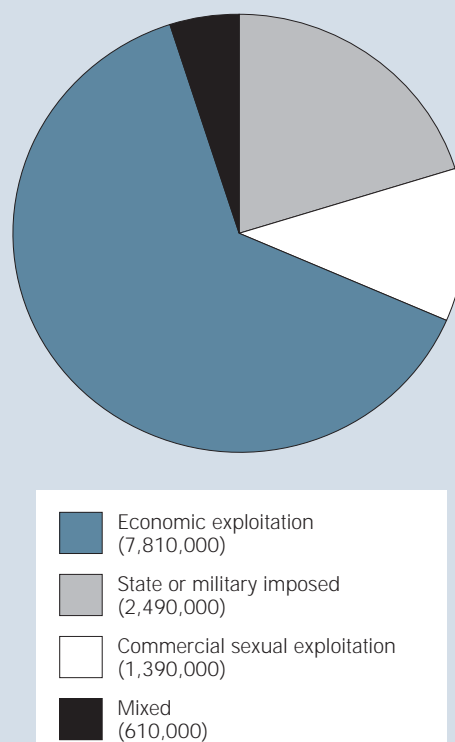
48. The numbers represent a minimum estimate of forced labour because it was decided to be very cautious in the choice of the underlying sources of information and to subject the data, as far as possible, to a rigorous validation process. The reliability of the figures also unavoidably reflects the quality and the quantity of available information; for example, they are less reliable in regions where awareness is low or where freedom of expression is restricted. It is also possible that some forced labour situations may be completely unaccounted for. Thus, this first global estimate must be seen as part of an ongoing process of generating more and better information on forced labour.

49. Like all estimates, this global estimate is subject to errors. One aspect is the sampling error. It arises from the fact that the estimate is a generalization based on a sample. If different samples were to be examined on different occasions, there is no doubt that the resulting estimate would be somewhat different each time. The double-sampling methodology adopted here, fortunately, provides not only an estimate of global forced labour, but also an estimate of the induced sampling error involved. This sampling error, or “standard error” in the statistical terminology, is calculated in the present context to be about 2.5 million. Thus, different sampling of reported cases should lead, with a high degree of likelihood, to global estimates of forced labour within the range of 9.8 to 14.8 million.

Main forms of forced labour

50. Figure 1.2 shows the distribution of the global minimum estimate of forced labour broken down into its main forms. Globally, only 20 per cent of all forced labour is exacted directly by the State or armed forces. The rest is exacted by private agents who take advantage of vulnerable people. Forced commercial sexual exploitation represents 11 per cent of all cases, and

Figure 1.2. Forced labour by form



Source: ILO Special Action Programme to Combat Forced Labour (SAP-FL).

the overwhelming majority share – 64 per cent – is exacted by private agents for the purpose of economic exploitation. About 5 per cent is in forms of forced labour that could not be clearly identified.

Regional distribution

51. Table 1.1 shows results disaggregated by region. It confirms that forced labour is a truly global problem, affecting substantial numbers of people in both developed and developing countries and in all regions of the world. The numbers are largest in the Asia-Pacific region, followed by Latin America and the Caribbean, and sub-Saharan Africa. In these regions, the figures reflect the stubborn survival – and often the transmutation – of traditional forms of servitude. But there are also large numbers in industrial, transition and Middle Eastern countries. As discussed throughout this Report, in these regions the numbers essentially capture the emergence of newer forms of

8. United Nations: *World Population Prospects: The 2002 Revision*, Vol. II: Sex and age distribution of populations, ST/ESA/SER.A/223 (New York, 2003), p. 39.

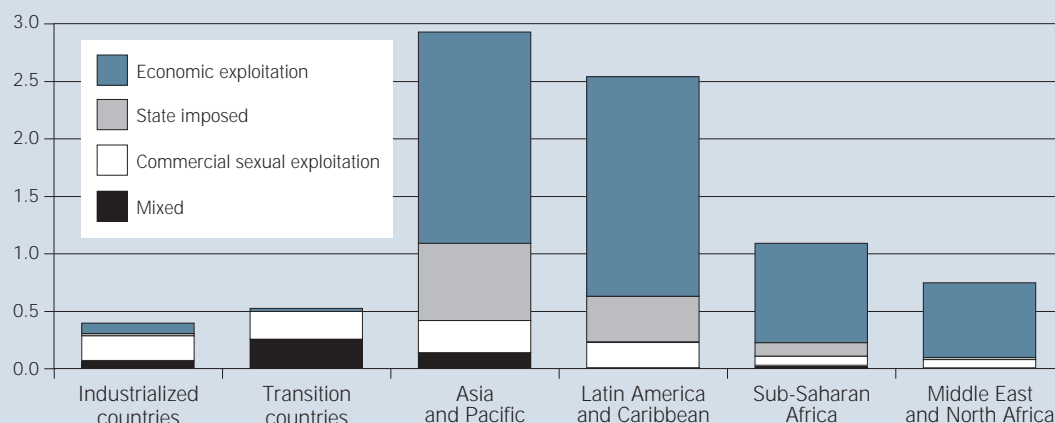
9. Calculated on the basis of ILO: *Economically active population estimates and projections (1950-2010)*, Preliminary 5th edition, at http://laborsta.ilo.org/default_page.htm.

Table 1.1. Regional distribution of forced labour

	Number of people in forced labour
Asia and Pacific	9 490 000
Latin America and Caribbean	1 320 000
Sub-Saharan Africa	660 000
Industrialized countries	360 000
Middle East and North Africa	260 000
Transition countries	210 000
World	12 300 000

Source: ILO Special Action Programme to Combat Forced Labour (SAP-FL).

Figure 1.3. ILO estimated minimum incidence of forced labour per 1,000 inhabitants (1995-2004)



Source: SAP-FL.

forced labour linked to globalization, migration and human trafficking.

52. Figure 1.3 shows the incidence of forced labour in relation to population size in the different regions. Asia and the Pacific, Latin America and the Caribbean, and sub-Saharan Africa remain the three regions with the highest incidence of forced labour in relation to their population, with 3, 2.5 and 1 victim of forced labour per thousand inhabitants, respectively. This is followed by the Middle East and North Africa (0.75 person per thousand inhabitants), transition economies (0.5 person per thousand inhabitants) and industrialized countries (0.3 person per thousand inhabitants).

53. Almost two-thirds of total forced labour in Asia and the Pacific is private-imposed for economic exploitation, mostly debt bondage in agriculture and other economic activities. About 20 per cent of total forced labour in Asia and the Pacific is state-imposed, concentrated in a few countries in the region, including Myanmar. Forced labour for

commercial sexual exploitation makes up less than 10 per cent of total forced labour in that region. The pattern of forced labour is similar in Latin America and the Caribbean, where the dominant form of forced labour is private-imposed for economic exploitation (75 per cent), followed by state-imposed forced labour (16 per cent), and forced labour for commercial sexual exploitation (9 per cent). In sub-Saharan Africa too, the bulk of forced labour is for economic exploitation (80 per cent), followed by state-imposed forced labour (11 per cent) and forced labour for commercial sexual exploitation (8 per cent).

54. The pattern of forced labour in the Middle East and North Africa is similar to that of the other developing regions, although state-imposed forced labour constitutes a relatively smaller fraction (3 per cent). Private-imposed forced labour for economic exploitation is the dominant form of forced labour (88 per cent), followed by forced labour for commercial sexual exploitation (10 per cent).

55. In transition economies and industrialized countries, the pattern of forced labour is somewhat different from that of the developing countries. In both of these regions, the dominant form of forced labour is for commercial sexual exploitation (46 per cent and 55 per cent, respectively),¹⁰ while the share of state-imposed forced labour is almost nil in transition economies and less than 5 per cent in industrialized countries. However, even in industrialized countries, where much of the focus of attention has so far been on forced commercial sexual exploitation, almost one-quarter (23 per cent) of forced labourers are coerced for the purpose of non-sexual economic exploitation.

Trafficking in persons

56. The estimated minimum number of persons in forced labour at a given time as a result of trafficking is 2.45 million.

57. Therefore, about 20 per cent of all forced labour and about one-quarter of the forced labour exacted by private agents is an outcome of trafficking. This shows that, while the forced labour arising from trafficking represents a significant proportion of the total, the large majority of forced labour globally is not linked to trafficking. However, there are important geographical variations. The numbers shown in table 1.2 imply that in Asia, Latin America and sub-Saharan Africa, the proportion of trafficked victims is under 20 per cent of all forced labour. In industrialized countries, transition countries and the Middle East and North Africa region, however, trafficking accounts for more than 75 per cent of forced labour. In these parts of the world, trafficking is thus the main route into forced labour.

58. Trafficked people are counted in the region of destination (i.e. where they are forced to work) and not in their region of origin. The relatively low estimates for Africa or transition countries should not obscure the fact that many people from these regions are trafficked towards other regions, including industrialized countries.

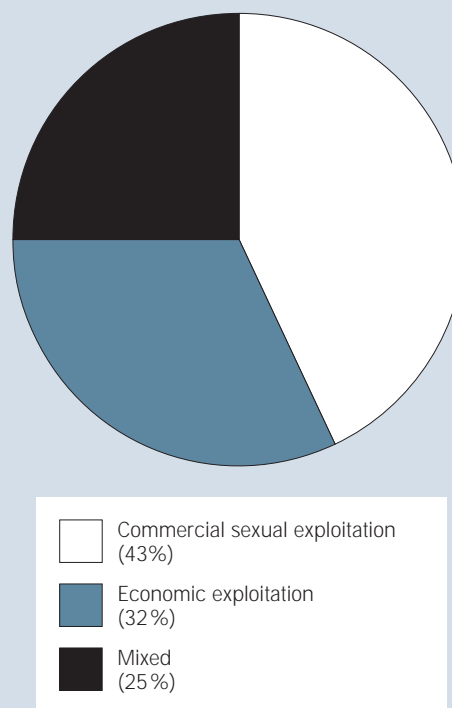
59. As shown in figure 1.4, most people are trafficked into forced labour for commercial sexual exploitation (43 per cent) but many are also trafficked for economic exploitation (32 per cent). The remainder are trafficked for mixed or undetermined reasons (25 per cent). Here, too, there are geographical variations, with trafficking for economic exploitation ranging from about a quarter of all trafficking in industrial countries to about 90 per cent in the Middle East and North Africa.

Table 1.2. Regional distribution of trafficked forced labourers

	Number of people in forced labour as a result of trafficking
Asia and Pacific	1 360 000
Industrialized countries	270 000
Latin America and Caribbean	250 000
Middle East and North Africa	230 000
Transition countries	200 000
Sub-Saharan Africa	130 000
World	2 450 000

Note: Figures do not add up to total shown because of rounding.
Source: SAP-FL.

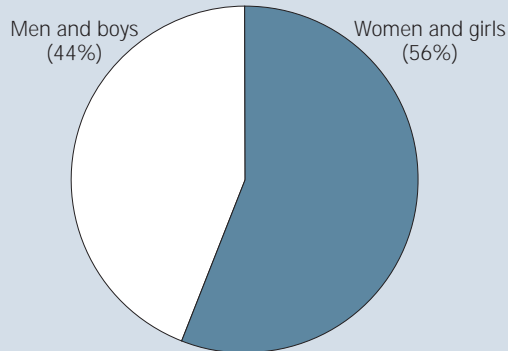
Figure 1.4. Trafficked forced labour by form



Source: SAP-FL.

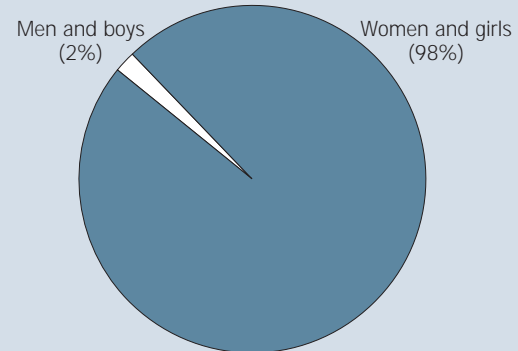
10. The percentages are even higher (95 and 71 per cent) if the mixed form of forced labour is added to the category of forced labour for commercial sexual exploitation.

Figure 1.5. Forced economic exploitation by sex



Source: SAP-FL.

Figure 1.6. Forced commercial sexual exploitation by sex



Forced labourers by sex and age

60. Who are the people trapped in forced labour? Figures 1.5 and 1.6 show results disaggregated by sex, based on those sources where such information was available. In forced economic exploitation, while women and girls represent 56 per cent of victims, men and boys nevertheless account for 44 per cent. Regarding forced commercial sexual exploitation, an overwhelming majority of 98 per cent are women and girls.

61. A precise breakdown of the results by age was not possible, as the exact age of victims is seldom reported in the sources. Many sources refer to the trafficking of young people without specifying their age. We nevertheless estimate that children represent between 40 and 50 per cent of all victims.¹¹

11. This is consistent with the estimate in the 2002 Global Report on child labour, which had estimated using a different methodology that there were 5.7 million children involved in forced and bonded labour. ILO: *A future without child labour*, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I(B), International Labour Conference, 90th Session, Geneva, 2002, table 3, p. 18





PART II

A dynamic global picture

1. Key global trends and developments

62. One major purpose of the global reports is to capture key global trends over the period under consideration.¹ Before reviewing certain aspects of forced labour in different regions of the world, it is important to make some general reflections concerning approaches to eradicating forced labour, in both law and practice, and concerning some of the underlying obstacles to effective action against it.

63. Two main findings of the global estimate are that forced labour is present in all regions and kinds of economy, and that most contemporary forced labour is exacted by private agents rather than constituting state practice. The offence of exacting forced labour, even when recognized under national law, is very rarely punished. And when forced labour cases are prosecuted, the sanctions are often very small compared to the gravity of the offence. For the most part, there is neither official statistical data on the incidence of forced labour, nor a widespread awareness among society at large that forced labour is a problem. It remains, with very few exceptions, one of the most hidden problems of our times.

64. This raises certain questions. Are laws against forced labour inadequate, either because the penalties are too small, or because they are too ambiguous to permit effective prosecutions? Or do the problems lie rather in weak law enforcement, together with inadequate or under-resourced monitoring and inspection systems? Do the economic sectors where forced labour incidence is highest tend to escape labour inspection?

65. A second group of questions concerns the most effective means of putting an end to forced labour. No one would deny that law enforcement is a major

part of the solution, and that impunity for offenders one of the most important reasons why forced labour practices continue. Yet there is widespread consensus that action against forced labour, including the forced labour outcomes of trafficking, requires an integrated approach that blends rigorous law enforcement with prevention and rehabilitation measures. These need to be based on a human rights and victim-centred approach, which clearly identifies the victim, seeking adequate redress for abuse as well as sustainable reintegration within society. As is widely recognized, moreover, policies and programmes need even to go beyond these two approaches. They may also need to identify the structural factors – perhaps in the operation of land, credit or labour markets, or even in aspects of contemporary globalization – which can explain the persistence or even growth of forced labour practices.

66. Four years is not a long period to expect significant changes at the global level on such a complex – and often deeply structurally embedded – issue as forced labour. The period covers the initial experience of the Special Action Programme to Combat Forced Labour (SAP-FL), approved by the ILO Governing Body in November 2001 as part of the promotional activities to assist member States in realizing the application of fundamental principles and rights through technical cooperation. SAP-FL's activities will be reviewed in more detail in Part III; suffice it to say here that its extensive research and awareness programmes have illustrated the various dimensions of forced labour in different contexts, and have served to identify some gaps in the law and policy framework, which can impede more effective state action against

1. "The purpose of this Global Report is to provide a dynamic global picture relating to each category of fundamental principles and rights noted during the preceding four-year period, and to serve as a basis for assessing the effectiveness of the assistance provided by the Organization, and for determining priorities for the following period, in the form of action plans for technical cooperation designed in particular to mobilize the internal and external resources necessary to carry them out." ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998.

forced labour. Meanwhile, action against child trafficking has been given continued priority by many governments, social partners and other actors, often assisted by the ILO's International Programme on the Elimination of Child Labour (IPEC).

67. There is still far from full consensus as to the structural causes of forced labour. In developing countries there are ongoing debates as to whether the failure of credit or financial markets, or agrarian systems and unequal power relationships, explain the persistence of forced and bonded labour in rural societies. And in all countries, a particularly difficult question is whether current patterns of globalization are actually creating, or contributing to, new forms of forced labour.

68. Combating impunity, through a sound legal framework and vigorous law enforcement, is always essential for effective action against forced labour. The following chapter reviews recent regional and national experience, and discusses some outstanding dilemmas in ensuring that appropriate penalties are applied for the various manifestations of modern forced labour.

69. Forced labour can be imposed by the State for different reasons. It can be for political or security reasons, for rehabilitation of prisoners or other detained persons, for purposes of economic development, and others. Chapter 3 examines changes in this regard since the last Global Report on the subject, and draws on an expanded knowledge base to discuss the forced labour aspects of prison labour.

70. In developing countries, the overwhelming majority of victims of forced labour are poor. In many cases, the exaction of forced labour can be linked to a pattern of discrimination. Poverty and discrimination

is therefore a useful perspective from which to review present-day patterns of forced labour, as well as the policy measures and programmes adopted by individual countries to deal with these problems. Among other things, Chapter 4 should help demonstrate why a broad mix of law enforcement, social and economic policies is needed to come to grips with structural problems of forced labour.

71. In all countries and regions migrant workers, particularly irregular migrants, are at particular risk of coercive recruitment and employment practices. While the problems are not limited to the industrialized countries, contemporary forced labour trends in these wealthier countries – and also remedial action – merit particular attention in this Report. Among other things, the analysis in Chapter 5 seeks to show why human trafficking is very much a forced labour concern and needs to be addressed more directly as such in future global action.

72. Chapter 6 discusses an issue of considerable complexity but of increasing concern, namely the linkages between forced labour and globalization. The first Global Report on forced labour aptly depicted trafficking as the “underside of globalization”.² This perspective remains of fundamental importance, as it focuses attention on the dangers that uncontrolled market forces entail for the most vulnerable groups, including migrant women. However, the present Report raises yet broader concerns. Beyond cross-border trafficking to the wealthier countries lie aspects of globalization which increase the risk of forced labour conditions within the poorer countries that are under intense pressure to produce cheaper goods for global markets. Given these pressures, what needs to be done to avert such dangers?

2. ILO: *Stopping forced labour*, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I(B), International Labour Conference, 89th Session, Geneva, 2001, p. 47.

2. Combating impunity: The law and its enforcement

Global and regional developments: Rising awareness

73. Global awareness of forced labour, especially as a result of human trafficking, has certainly increased over the last four years. The need to address these concerns has been recognized in several international or regional treaties, action plans and declarations. At the same time, a number of development agencies – both bilateral and multilateral – have started to become more aware of the need to address forced labour as part of effective development strategies.

74. An important event was the entry into force, on 25 December 2003, of the Trafficking Protocol supplementing the United Nations Convention against Transnational Organized Crime.³ This helped clarify earlier uncertainty as to the contents of the offence of human trafficking, and as to the identity of the victims (see Part I, Chapter 1). It also required each State Party to establish by law the criminal offence of trafficking for either labour or sexual exploitation.

75. Expert reports, policy statements, and declarations of regional and international bodies adopted since that time nevertheless still reflect different views as to the very concept of trafficking, the gender identity of the victims, or the main underpinnings of action against trafficking. Distinctions are frequently drawn between “law enforcement and border control” approaches to the problem on the one hand, and “human rights and victim-centred” approaches on the other. There is a growing acceptance, however, that effective action against trafficking must combine elements of all of these approaches. And, increasingly, there is recognition that trafficking is a labour market issue, and that labour institutions have a key role to play in action against it.

76. For example, the Brussels Declaration of September 2002 emphasized that for a comprehensive European policy against human trafficking, halting “the demand for sexual services, cheap labour and other forms of exploitation must continue to be at the forefront of the long-term efforts to fight human trafficking effectively”, and that a “global approach to trafficking must address all forms of exploitation, including sexual exploitation, labour exploitation, in particular child labour, and begging”.⁴ In July 2003, the Organization for Security and Co-operation in Europe (OSCE) adopted its Action Plan to

Combat Trafficking in Human Beings, which inter alia drew attention to the broader labour dimensions. Recommended action at the national level included economic and social policies aimed at addressing the root causes of trafficking in destination countries. Member States were urged to implement measures to reduce the “invisibility of exploitation”; to address the “problem of unprotected, informal and often illegal labour, with a view to seeking a balance between the demand for inexpensive labour and the possibilities of regular migration”; and to tackle “underground economic activities which undermine economies and enhance trafficking”.⁵

77. In the African region, the Economic Community of West African States (ECOWAS) adopted in December 2001 its Declaration on the Fight against Trafficking in Persons,⁶ together with an Initial Plan of Action for 2002-03. The Declaration calls upon ECOWAS member States to adopt legislation establishing trafficking as a criminal offence, to develop policies and programmes to prevent and combat trafficking in persons and to protect victims from further victimization. Laying the groundwork for future co-operation between member States in strengthening border controls without limiting freedom of movement, it also calls on countries to take a range of educational and social preventive measures to discourage demand for trafficked persons. The Plan of Action gives indicators and target dates for specific measures. It also identifies the particular input of the ILO, together with other international agencies, in prevention and awareness raising.

78. In the Asia and Pacific region, the “Bali Process” was initiated by the Governments of Australia and Indonesia to develop practical measures at a regional level against trafficking and smuggling. Two regional Ministerial conferences were held in 2002 and 2003, followed by a Senior Officials’ Meeting in Brisbane, Australia, in June 2004. Regional workshops have also assisted countries in developing legislation and promoting mutual legal assistance. The process has thus moved from one of enunciating principles to more practical measures, while there has also been a recent change of focus from the interception of smuggling towards the prevention of trafficking and protection of victims. The Brisbane meeting reiterated the need to focus on the root causes of illegal movement of

3. See Introduction of this Report, para. 2. The Convention itself entered into force on 29 Sep. 2003, and a second supplementary Protocol against the Smuggling of Migrants by Land, Sea and Air on 28 Jan. 2004. As of 15 Nov. 2004 there were 76 States Parties to the Trafficking Protocol.

4. The Brussels Declaration was adopted at the European Conference on Preventing and Combating Trafficking in Human Beings: Global Challenge for the 21st Century, 18-20 Sep. 2002, which brought together more than 1,000 representatives from EU Member States, candidate countries, neighbouring countries and others, and institutions of the EU. The Council of the EU adopted Conclusions concerning the Brussels Declaration on 8 May 2003 (*Official Journal of the European Union*, C 137, 12 June 2003).

5. OSCE Permanent Council Decision No. 557: OSCE Action Plan to Combat Trafficking in Human Beings, PC.DEC/557, 24 July 2003.

6. Adopted at the Twenty-Fifth Ordinary Session of Authority of Heads of State and Government, Dakar, 20-21 Dec. 2001.

people, and to address the demand side of trafficking. Participants also agreed on the importance of data collection in the prevention of trafficking. Finally, attention was drawn to trafficking for labour exploitation and begging, and to the particular problems of trafficking during armed conflicts.

National experience

79. What significant developments have taken place during the period under review, and what lessons of good practice can be found? This section does not claim to present a detailed review of these issues by country, but merely seeks to highlight the most important ones, illustrated by selected examples.

80. A study on forced labour in Africa⁷ identified a range of inadequacies in the current legal framework in a number of countries. Definitions are very general, so that prosecutors and the courts find it difficult to identify forced labour situations in practice. Constitutional prohibitions are often not supported by specific laws, making it extremely difficult either for the authorities to bring a prosecution or for forced labour victims to refer a case to court. In other cases forced labour may be prohibited in a country's labour code but not specified in any law as a criminal offence. Separate laws may contain distinct and sometimes inconsistent definitions of overlapping offences, for example concerning forced labour, slavery, servitude or servile status and trafficking; in such cases, national laws tend to reflect an assumption that forced labour is the least serious of these offences. Furthermore, the offence of trafficking in persons is often defined in law as only concerning women and girls trafficked into prostitution or other sexual exploitation.

81. Some countries have recently clarified the definition of more traditional forms of forced labour, or increased the penalties for forcing someone to work. For example, Niger's 2003 law amending the Penal Code⁸ specifically addresses the predicament of persons whose ancestors were enslaved and who are described as still being of "servile status". The amended law also clarified the offence of debt bondage, providing for severe penalties in the form of lengthy prison sentences and heavy fines. Mali provides severe penalties for child trafficking under its 2001 Penal Code. In Nigeria, a new 2003 anti-trafficking law⁹ provides for life imprisonment for slavery offences, for a series of penalties including fines for trafficking-related offences involving minors under the age of 18,

but for life imprisonment in the case of their importation or exportation for the purpose of prostitution. For the most part, however, penalties for the offence of forced labour appear to be very light.

82. In most African countries, where institutions of both labour administration and law enforcement have severe resource limitations, the record on law enforcement is unsurprisingly weak. In Sudan, for example, although a legal framework is in place and the authorities now acknowledge thousands of abductions, no one has so far been prosecuted for abductions or the offence of forced labour. Nigeria's new anti-trafficking law holds out promise of good practice. It provides for a National Agency for Prohibition of Traffic in Persons and Other Related Matters (NAPTIP) responsible for training law enforcement agents and others, to ensure effective implementation. It is too early to assess the effectiveness of this new institutional structure.

83. In several South Asian countries a legal framework against bonded labour systems is now firmly in place. Typically, as in India and Pakistan, the laws provide for a detailed definition of bonded labour and bonded labour systems, penal provisions for the offence of exacting bonded labour, and modalities for enforcement. India's Bonded Labour System (Abolition) Act, 1976 (BLSA), provides for imprisonment of up to three years and fines of up to Rs.2,000 for anyone who compels any person to render any bonded labour and advances any bonded debt. Pakistan's Bonded Labour System (Abolition) Act, 1992, provides for a penalty of between two and five years' imprisonment, or a fine of not less than PRs.50,000, or both, as punishment for enforcing or exacting bonded labour.

84. In August 2004, the Government of India reported 4,859 prosecutions to date under the BLSA, a total that probably far exceeds that of any other single country on a forced labour offence. However, it is not known how many resulted in convictions.¹⁰ Yet the number of prosecutions is still low compared to the number of bonded labourers: the Government's own official statistics indicate that 285,379 bonded labourers had been identified as at 31 March 2004, of whom 265,417 had received rehabilitation assistance.¹¹ The remaining 19,962 persons were not available for rehabilitation as they either had died or could not be traced. State governments report that 527 district-level Vigilance Committees have been constituted to monitor the situation on the ground.¹² However, the federal Government acknowledges that there is some confusion over what constitutes bonded labour. For

7. M. Dottridge: "Forced labour in Africa: Concepts, categories and challenges" (ILO, SAP-FL Working Paper, forthcoming).

8. Act No. 2003-025 of 13 June 2003, to amend Act No. 61-27 of 15 July 1961 establishing the Penal Code.

9. Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003.

10. Data are available only for the State of Uttar Pradesh, where a total of 2,421 prosecutions resulted in 1,228 convictions and 1,193 acquittals (information provided to SAP-FL by the Government of India, 31 Aug. 2004).

11. *ibid.* The states in which bonded labourers have been released and rehabilitated are, in order of their respective numbers: Tamil Nadu, Karnataka, Orissa, Andhra Pradesh, Uttar Pradesh, Bihar, Madhya Pradesh and Rajasthan, which together account for 98 per cent of all rehabilitated bonded labourers. A further eight states account for the remaining 2 per cent.

12. *ibid.*

example, when workers receive short-term advances from their employers, in the absence of formal financial services to cater to their credit needs, they are considered as working of their own volition and not under coercion.¹³

85. This points towards the continued problem of identification, which keeps the number of prosecutions low. India was the first country to acknowledge the pervasive problem of bonded labour, and hence has the longest track record in understanding, documenting and tackling it. Although the BLSA defined the bonded labour system, it did not lay down any precise method of identifying bonded labourers. A methodology to this effect has not yet been clearly established and agreed upon by the various stakeholders concerned. It remains crucial to determine whether workers are somehow forced to work by virtue of the bond or debt to their employer, or are merely poorly paid or otherwise exploited but nevertheless free to leave their employment.¹⁴ Bonded labour was expansively interpreted by the Indian Supreme Court in 1982 as non-payment of the minimum wage.

86. In Pakistan, there are no available data on prosecutions. Pressure on the Government from civil society groups and activists to increase the effectiveness of action to eliminate bonded labour certainly remains high. According to data compiled by the Human Rights Commission of Pakistan's Special Task Force for Sindh province, just under 19,000 bonded *hari* sharecroppers were released from bondage in the period between January 2000 and June 2004.¹⁵ The vast majority reportedly escaped through their own means, while only a minority were released with the assistance of the High Court or District Administration. Legal releases peaked in 2000 and 2001, but appear to have dramatically declined since, with no *haris* released through the Sindh High Court in 2003, and only 30 through the District Administration. In Punjab, however, more than 350 bonded brick-kiln workers, including women and children, were released in 2003 by the Lahore High Court.¹⁶

87. In Pakistan effective law enforcement has apparently been impeded by conflicts of jurisdiction between federal and provincial law. In January 2002, for

example, justices of the Sindh High Court dismissed 94 petitions of bonded *haris* against illegal arrest and detention by the landowner, on the grounds that the disputes should be handled under the Sindh Tenancy Act.¹⁷ As a consequence, it is claimed, the release of *haris* has considerably slowed, with all new petitions continuing to be rejected by the Sindh High Court. In the meantime bonded labour cases were taken up through the Sindh courts in late 2003 and early 2004. Eight such cases were decided in favour of the *haris*, resulting in the release of 112 people in all.¹⁸ A recent positive development has been the official notification, in the course of 2004, of six District Vigilance Committees (DVCs) in Sindh province, which may prepare the ground for more effective prosecution and punishment of the employers of bonded labour, and release of bonded labourers.

88. Asian countries undergoing economic transition have also come to recognize that forced labour can be exacted for private purposes. China's 1997 amendment to the Penal Code provided for the offence of forcing employees to work, punishable by a prison sentence of up to three years and/or a fine (section 244). No data are currently available as regards prosecutions under this offence, which applies only in cases where there is a proven employment relationship.

89. In Latin America, the Brazilian experience is worth highlighting. The offence of forced labour is covered under provisions of the Penal Code which provide sanctions for reducing a person to a condition "analogous to that of a slave". While reference has at times been made to the low rate of prosecutions for forced labour offences (compared for example with the number of released victims), there has been a significant change since early 2003. A longstanding concern in Brazil has been the question of competence over forced labour cases, between federal and state levels and the labour courts. There have been further concerns that fines have been too small to act as a significant deterrent. A trade union has expressed the view that the lack of criminal proceedings is principally due to the fact that the federal judiciary has on several occasions declared itself incompetent to judge forced labour offences.¹⁹

13. Government of India's comments on observations of the International Confederation of Free Trade Unions (ICFTU), 17 Jan. 2002.

14. In many cases, the bonded labourer receives a payment that is well below the casual labour market wage rate. In such cases, the labourer might voluntarily accept her or his servile status in return for steady employment in the face of an uncertain labour market. The difference between the market rate (i.e. opportunity cost of labour) and actual wage payment can be viewed as an "insurance premium" to guard against unemployment. Thus, while the labourer may exhibit several features of debt bondage, he or she is not in reality unfree.

15. See web site of the Human Rights Commission of Pakistan (HRCP), at www.hrnp-web.org/bonded.cfm.

16. HRCP: *State of human rights in 2003* (Lahore, 2004), p. 293.

17. Constitutional Petition No-D35 of 2000. High Court of Sindh, Circuit Court, Hyderabad (para. 36(c) of judgement). The judges further recommended that the Act should be amended "so as to bring it in conformity with the requirement of the ground realities" (para. 36(b) of judgement).

18. HRCP: *Abolition of bonded labour: Judiciary's potential for redress* (Lahore, undated). Amongst the remaining cases, three were turned down and the petitioners told to approach the tribunal under the Tenancy Act; two were dismissed on technical grounds; two were withdrawn by the petitioners; three are pending; in two cases, the landlords implicated the *haris* in counter-cases; and in three, the landlords prevented the petitioners from appearing in court.

19. ILO: *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1A), International Labour Conference, 92nd Session, p. 126.

90. Since early 2003, the Government of President Lula da Silva has adopted yet stronger measures to combat forced labour and impunity in Brazil. In December 2003, the Penal Code was amended to incorporate the concept of “reducing a person to a condition analogous to that of a slave”.²⁰ This is defined as subjecting a person to forced labour, to arduous working days or to degrading working conditions, or restricting their mobility by reason of a debt contracted in respect of the employer or representative. Any person who retains workers at the workplace by preventing them from using means of transportation, retaining their personal documents or property, or maintaining manifest surveillance, is liable to the same prison sentence. Furthermore, a proposed amendment to the Constitution provides for the expropriation without compensation of agricultural establishments in which the use of slave labour has been identified.²¹ The expropriated lands would be consigned to the agrarian reform programme and reserved as a priority for the persons who worked on them. At the time of writing, this proposal, actively supported by the Government, has been approved by the Senate and is being examined by the Chamber of Deputies.

91. Law enforcement has also been enhanced in Brazil, with positive results. A Special Mobile Inspection Group (GEFM) has been strengthened, while 150 new labour inspectors were assigned in 2004 to priority areas in which forced labour is concentrated. The year 2003 saw approximately 4,900 workers freed (see figure 2.1). Between February 2003 and May 2004 the Attorney-General initiated 633 administrative proceedings to verify allegations of slave labour, and a number of convictions have been brought.

92. In the industrialized countries forced labour concerns have been addressed mainly under the umbrella of new laws against trafficking. This is the case of the Trafficking Victims Protection Act (TVPA), adopted by the United States legislature in 2000.²² The law both created new crimes and enhanced penalties for existing offences, including trafficking with respect to peonage, slavery, involuntary servitude or forced labour; and criminalized attempts to engage in these behaviours. It also provided for victim assistance in the United States by making trafficking victims eligible for federally funded or administered health and other benefits and services, and by protecting from removal certain trafficking victims who cooperate with law enforcement in the investigation and prosecution of trafficking. The new law has reportedly led to a progressive increase in prosecutions.

As of March 2003, the United States Department of Justice has reported that there were nearly twice as many trafficking investigations open as in January 2001. In the fiscal years 2001 and 2002 there were more than double the number of trafficking prosecutions than in the years which preceded the adoption of the TVPA. The number of cases is nevertheless seen as low in relation to the estimated magnitude of the problem.

93. The TVPA has also led to stronger penalties for trafficking, including in forced labour cases. In November 2002, the United States Sentencing Guidelines were permanently amended to incorporate TVPA offences. In one such case under the new Guidelines in the fiscal year 2003, two defendants convicted of holding an African victim in involuntary servitude were each sentenced to 108 months' imprisonment, together with restitution payments to the victim. Furthermore, the Department of Justice has been carrying out extensive training of both federal and local law enforcement officials to ensure that human trafficking activity is appropriately investigated and prosecuted as such, rather than masquerading as another crime such as alien smuggling. Prosecutors have also been assisting efforts to develop regional anti-trafficking task forces in states including California, Colorado, Florida, Georgia and Illinois, and also in New York City.²³

94. In the United Kingdom, the specific offence of forced labour is not provided for by law. A series of recent policy measures and law reforms have nevertheless increased the scope for addressing cases of forced labour abuse, once again mainly by recourse to new laws against trafficking. The Government set out a broad policy on forced labour and trafficking in the context of migration through a White Paper issued in 2002.²⁴ It observes generally that irregular migrant workers are vulnerable to exploitation and social exclusion, as a result of employer practices such as remuneration below the minimum wage and evasion of other responsibilities such as welfare provision, safety requirements or the payment of tax and national insurance contributions. The White Paper recognizes that problems related to the employment of irregular migrants are particularly severe in agriculture, catering, cleaning, hospitality and construction, and argues that better management of migration is necessary to ensure the availability of legal labour to satisfy business needs. It announced new immigration and law enforcement measures, together with new laws on trafficking for labour exploitation and sexual exploitation, as well as on people smuggling.

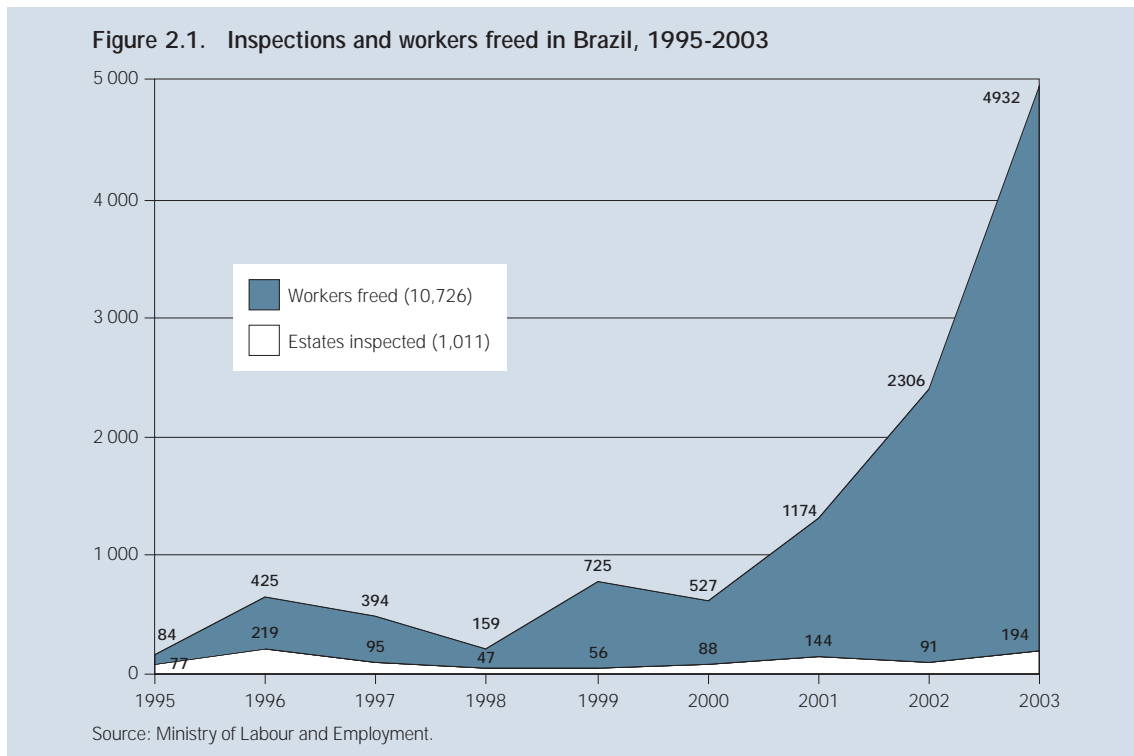
20. S. 149 of the Penal Code, as amended by Act No. 10,803 of 11 Dec. 2003.

21. Draft amendment to article 243 of the Constitution (PEC No. 438/2001).

22. Recently amended by the Trafficking Victims Protection Reauthorization Act of 2003.

23. United States Department of Justice, United States Department of Labor and other federal agencies: *Assessment of US activities to combat trafficking in persons* (Washington, DC, Aug. 2003).

24. Home Office: *Secure borders, safe haven: Integration with diversity in modern Britain* (London, HMSO, 2001).



95. These government proposals have now become law, in part through changes to immigration law, and in part through recent legislation creating a compulsory registration regime for the labour contractors referred to in the United Kingdom as “gangmasters”. A new immigration offence of trafficking in prostitution was created in 2002,²⁵ followed in July 2004 by a second new offence of trafficking people for (labour) exploitation.²⁶ Both carry a maximum sentence of up to 14 years’ imprisonment, equal to the penalty for drug trafficking, and would appear to demonstrate a firm commitment to treating trafficking as a serious crime. The relevant provisions of the 2004 legislation rely on international standards for the prohibition of forced labour, referring specifically to provisions of the European Convention on Human Rights on slavery, servitude and forced labour.

96. The Gangmasters (Licensing) Act, also adopted by Parliament in July 2004, began life as a Private Member’s Bill, and was given added momentum by the tragic deaths of over 20 irregular Chinese migrant workers in February 2004, and also by the findings of a Parliamentary Select Committee that a voluntary registration system would be ineffective.²⁷ The Act creates a compulsory licensing system for gang-

masters and employment agencies who supply or use workers in agricultural activities, gathering shellfish and related processing and packaging activities. The aim behind the introduction of the Act was to “curb the exploitative activities of agricultural gangmasters”. However, it applies generally to employment agencies operating in the agricultural and shellfish sectors, and to companies, unincorporated associations and partnerships. It lists in broad terms the wide range of subcontracting arrangements to which the licensing regime applies; makes it an offence to operate as a gangmaster without a licence, to possess a false licence, or to obstruct enforcement officers; makes all the offences arrestable; and enables the assets of convicted gangmasters to be seized. The Act has been hailed as a model of its kind by British trade unionists, who have long been pressing for the registration of gangmasters.

97. In several other European countries, the offence of forced labour is not identified as such in existing criminal law. Many countries, however, either have adopted new legislation to criminalize the offence of human trafficking or are now in the process of developing such legislation. France adopted comprehensive anti-trafficking legislation

25. Nationality, Immigration and Asylum Act 2002, s. 145.

26. Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, s. 4.

27. House of Commons Environment, Food and Rural Affairs Committee: *Gangmasters*, Fourteenth Report of Session 2002-2003 (London, The Stationery Office, Sep. 2003).

in March 2003, covering all aspects of labour and sexual exploitation.²⁸ The concept of forced labour may be considered as covered indirectly by two sections of the Penal Code, one providing sanctions for obtaining services which are unremunerated or for which the remuneration clearly does not correspond to the value of the work performed; the other providing sanctions when conditions of work and accommodation are incompatible with human dignity.²⁹ In Germany, recent amendments to the Penal Code include separate provisions for the offences of trafficking for sexual exploitation and for labour exploitation (sections 232 and 233). Amendments to the Criminal Code of the Russian Federation introduced by Federal Act No. 162-FZ of 8 December

2003 provide for penalties for trafficking and forced labour offences. At the time of writing, a more comprehensive anti-trafficking law was still pending before the Duma.

98. Lastly, Japan has steadily increased its measures against trafficking since early 2004. In April 2004 a Coordination Mechanism on Trafficking in Persons was established by the Prime Minister's Office to strengthen coordination among various ministries in prosecution of traffickers, as well as prevention and rehabilitation. A National Plan of Action against human trafficking was approved in December 2004. In the same month the Government announced that a revised Criminal Code would incorporate new provisions addressing human trafficking.

28. Act No. 2003-239 of 18 Mar. 2003 on internal security (Ch. VIII – Provisions to combat trafficking in human beings and procuring).
29. Ss. 225-13 and 225-14 of the Penal Code.

3. Forced labour and the State

99. Forced labour imposed directly by the State, while not the largest problem in terms of numbers, remains a cause for serious concern. Any Global Report on the fundamental human rights issue of forced labour must give due attention to cases where it is imposed by the State. The concerns are very much the same as four years ago, when the first Global Report on the subject commented on the extreme case of forced labour exacted by the military in Myanmar,³⁰ and also discussed some contemporary dilemmas of prison-related forced labour.³¹ This latter discussion focused on two main issues: prison labour performed in the context of various forms of private enterprise; and that imposed by the State for what it characterizes as anti-social acts, with particular reference to the Reeducation through Labour (RETL) system in China. There remain also some concerns, particularly in Africa, about the possible imposition of forced labour for development purposes.

100. During the intervening period, there have been some important developments on all of these fronts. The situation in Myanmar has been watched closely by the world community, with the ILO itself taking a lead in drawing attention to continued forced labour practices. China in the meantime has taken significant steps towards reform of its RETL system. Intensive debates persist, including in the industrialized countries, as to how current practices of hiring prisoners out to private companies can be reconciled with the principle of eradicating forced labour. An ILO technical meeting held in July 2004, involving prison administrators, academic specialists and representatives of employers' and workers' organizations, provoked some important reflection on these issues.³² These will be examined in further detail in the section on forced labour and prison labour below.

Forced labour imposed by the State: General considerations

101. For the most part, it would appear that systematic state practice of compelling free citizens to work, for either economic or political purposes, is on the decline worldwide. Exceptions can be found, such as the labour mobilization campaigns detected in certain central Asian countries, a remnant of practices which were widespread during the Soviet era.

In Tajikistan and Uzbekistan, for example, forced labour in the cotton industry has affected mainly women, children and young students. During the planting and harvesting seasons, they are transported to the cotton fields and made to work for little or no remuneration. Coercion can be exercised through such penalties as threats of dismissing students from university. Women are sent by families according to an established quota, whereas children take part in this compulsory work as part of their school curricula.

102. Forced labour and services can also be imposed by the State in the context of armed conflict. In some African countries, there have been widespread reports of forced abduction and conscription into government and government-supported military groups, as well as insurgent forces, together with the use of adult and child forced labour.

The special case of Myanmar

103. The case of Myanmar continues to represent the different ways in which forced labour can be exacted by the State, and also military authorities, for multiple purposes. The ILO has been following the situation intensively since the Commission of Inquiry on Forced Labour in Myanmar (Burma) published its report and recommendations in 1998.³³ The issue has been discussed at virtually all sessions of the International Labour Conference and the Governing Body since, and this Report will not repeat what has been said on those occasions. However, some features of this forced labour today are worth noting here, too.

104. The profile of this forced labour is evident from the range of complaints received by the ILO Liaison Officer (72 such complaints by late 2004, of which 38 had been forwarded to the authorities for follow-up investigation and action). Seven new cases were reported to the ILO Governing Body in November 2004.³⁴ One involved a child who was taken against his will to an army recruitment centre and forced to enlist under threat of imprisonment. After escaping but later turning himself in to his battalion, he was sentenced to six months' imprisonment, after which he was ordered to continue military service. In a second group of cases, involving different

30. *Stopping forced labour*, op. cit., pp. 44-46.

31. *ibid.*, pp. 59-63.

32. Research Symposium on Prison Labour and its Present-day Implications, Geneva, 19-20 July 2004.

33. ILO: *Forced labour in Myanmar (Burma)*, Report of the Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organisation to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29), *Official Bulletin* (Geneva), Vol. LXXXI, 1998, Series B, special supplement; also available at www.ilo.org/public/english/standards/relm/gb/docs/gb273/myanmar.htm.

34. *idem*: *Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29): Report of the Liaison Officer a.i.*, Governing Body doc. GB.291/5/1, 291st Session, Geneva, Nov. 2004, para. 14.

villages in Bago township, every household had been given a quota of work to complete, under threat of arrest if they did not do so. Villagers had to provide compulsory cash contributions in addition to their labour, while vehicles and their drivers were also requisitioned for transporting materials. According to a third allegation from a number of victims, labour had been requisitioned for several years by a Military Operations Command in Rakhine State, for the cultivation of land that had previously been confiscated from farmers for the establishment of this military command. Farmers were required to continue cultivating this land on behalf of the military, using their own tools.

105. In a fourth case in Hinthada township, Ayeyawaddy Division, villagers had allegedly been requisitioned by local authorities to provide round-the-clock sentry duty on a rotation basis. In a fifth case in Rakhine State, 45 persons from each village had to work on gravel provision or bridge construction projects each day. Muslim villagers were particularly affected, but Rakhine Buddhist villagers were also requisitioned. In a sixth case in Ramree township, Rakhine State, labour has for several years been requisitioned from 40 villages for annual road repairs. Villagers were threatened by the police that action would be taken against them if they did not provide labour; and in March 2004 a student had been prosecuted by local authorities for allegedly refusing to work.

106. As regards actual practice, while some improvements in the situation have occurred in central parts of Myanmar, forced labour continues to be imposed in various forms, in particular in remote areas under the authority of the army. As regards the situation in law, the continued prevalence of forced labour is not due to the form and content of the amended Administrative Orders which prohibit the exaction of forced labour. In fact, the population seems increasingly ready to use this legal remedy. But the legal prohibition on forced labour has not been effectively implemented.³⁵

107. The ILO has been able to establish a permanent presence on the ground through the appointment of a Liaison Officer, who maintains regular contact with high-level Government officials. The Administrative Orders prohibiting forced labour have been translated into six ethnic languages (although there is still no evidence that they have been widely disseminated or posted in the ethnic areas concerned).³⁶ Negotiations led to agreement in May 2003 on a Joint Plan of Action between

the Government and the ILO. Components were to include: awareness raising and information dissemination on the abolition of forced labour; the establishment of an independent Facilitator, with the role of assisting possible victims of forced labour in Myanmar to seek redress; and a pilot programme in a special focus region where the prohibition on forced labour would be strictly enforced and an ILO-assisted labour-intensive road construction project would serve to demonstrate the feasibility of this approach without recourse to forced labour.³⁷ As at early 2005, the ILO is not yet in a position to move forward with implementation of the Joint Plan of Action.

108. In the meantime, other procedural arrangements have been put in place. Seven field observation teams (FOTs) undertake trips to the field to oversee the implementation of Convention No. 29 and carry out investigations into allegations of forced labour. An Implementation Committee in Yangon reviews problems and progress, and the Government has held a number of workshops for local officials on the implementation of the Convention. The ILO Liaison Officer has undertaken several field visits to remote areas to assess the situation in person, without interference from the authorities and, on occasion, to accompany FOTs to the field. The methods used by the FOT investigations were found in principle to be reasonably sound. However, failure to find any case of forced labour has called the credibility of the mechanism seriously into doubt. This underlines the fact that, at the time of writing of this Report, no real breakthrough for effective action against forced labour in Myanmar has taken place.

109. The Myanmar case thus demonstrates that it is impossible to make effective progress against forced labour when there is a climate of impunity and repression against persons who denounce forced labour abuses, in the absence of the political will to clamp down on the military and local authorities who are themselves deriving economic advantage from forced labour practices.

35. idem: *Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29): Report of the Director-General*, Governing Body doc. GB.291/5/2, 291st Session, Geneva, Nov. 2004, paras. 11 and 12.

36. idem: *Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)*, Governing Body doc. GB.289/8, 289th Session, Geneva, Mar. 2004, para. 10.

37. idem: *Special sitting to examine developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)*, in *Record of proceedings*, International Labour Conference, 91st Session, Geneva, 2003.

Forced labour in prisons and detention centres

Prison labour without due sentence

110. Attention continues to be focused on the RETL system in China,³⁸ the reform of which has been under increasingly active consideration. Official figures from the Ministry of Justice indicate that some 260,000 persons were detained under the RETL system as of early 2004, distributed through some 220 different centres. Just over half of these are said to be detained for drug addiction, the remainder mainly for such offences as theft and prostitution.

111. Outside observers have detected a recent increase in the number of RETL detainees in response to rising crime rates, placing increased burdens on the formal criminal justice system, and to a steady growth in the number and size of social protests and disturbances in China. It has also been observed that the gradual expansion of defendant rights in the formal criminal justice system encourages police to rely more heavily on administrative detention.³⁹

112. Reform of the RETL system has been actively discussed in China during the period under review. It has been questioned by Chinese jurists, as well as by international observers, as in conflict with other domestic laws adopted in recent years. In March 2004 China amended its Constitution to recognize that the State respects and safeguards human rights. In the meantime a congressional petition challenging the legality of RETL reached the Standing Committee of the National People's Congress, which incorporated its reform in the Five-Year Legislation Plan. A special working group has been established to devise a substitute system of community correction.

113. Since early 2003, the ILO has been providing assistance for the reform of RETL, through technical seminars in China and study tours overseas.⁴⁰

Forced labour and prison labour

114. The previous Global Report on forced labour focused on the issues that have arisen in the recent dialogue between certain member States and the ILO supervisory bodies – namely the principle of eradicating forced labour in private prisons, or by prisoners placed at the disposal of private companies. It is also useful to reflect on some wider issues. What consensus exists as to the basic purposes of prison labour today? To what extent can and should there be safeguards for all prisoners against abusive forced

labour situations? And what can be the role of labour inspections, ranging from labour inspectors to employers' and workers' organizations, in working together with prison authorities to this effect?

115. Freedom of choice is a complex issue as far as prisoners are concerned. Prisoners are generally expected to work, with certain exceptions. It can also be argued that detained persons who have not yet been sentenced should have the right (but not the obligation) to work, as far as practicable.⁴¹ Minimum standards of social protection are a different matter. Modern conscience could hardly accept a situation in which prisoners are chained together for long periods of time, performing back-breaking work as retribution for a crime. In most modern penal thought, work is part of an overall prison regime which aspires to the rehabilitation of criminal offenders, preparing them for eventual reintegration into life as free citizens.

116. It is perhaps curious that so little attention has been given worldwide to the way in which the principle of eradicating forced labour might apply to convicted prisoners and other detained persons. The ILO instruments provide for exceptions to the prohibition of exacting forced labour, in the case of prisoners who have been duly sentenced by a court of law. Persons under administrative detention are exempt from forced or compulsory labour; and there are specific guarantees of protection for prisoners placed at the disposal of private individuals, companies or associations, including those confined in private prisons. Yet of the approximately 8 million recognized prisoners worldwide – not to mention those in administrative or other forms of detention – only some 150,000 are in private prisons, and no figures are available as to those who might be working for private employers. What about the remainder? To what extent are the working conditions of all prisoners, whether working for private or public interests, a legitimate concern of the ILO and its constituents?

117. To stimulate constructive thinking on these issues, the technical consultation on the forced labour dimensions of prison labour held at the ILO in July 2004 examined such basic concerns as: the purposes of prison labour; international legal principles and prison labour; securing minimum safeguards for prisoners; approaches to control and supervision; and the role of the ILO in providing guidance on these issues. The potential role of the ILO is presented in Part III, in the context of the proposed future Action Plan on forced labour. Other salient points of this consultation are summarized below.

38. See *Stopping forced labour*, op. cit., pp. 62-63, for a detailed description. RETL is an administrative measure imposed by administrative committees dominated by public security organs on persons whose act is considered insufficiently serious to warrant criminal punishment, but too serious to be dealt with through normal administrative sanctions. The system is characterized by the lack of judicial process, severity of punishment of up to three years' detention, and the vague scope of the offences covered.

39. Congressional-Executive Commission on China: *Annual Report 2004* (Washington, DC, US Government Printing Office, 5 Oct. 2004), p. 17.

40. See Part III for more details.

41. In some Swiss cantons, for example, a detained person on remand can elect to be sent to a prison for sentenced prisoners, and thereby be able to work.

Basic purposes of prison labour

118. There would appear to be consensus that work is an important part of the prison regime, and should be beneficial to the prisoner rather than punitive in nature. It is only one aspect of the broader prison regime, in which the core issue may be seen as ensuring security while at the same time guaranteeing the protection of prisoners.

119. Subject to certain conditions, there are strong indications that many prisoners actively desire to work. Work provides relief from idleness, which is frequently identified as the single most important problem in prisons. Prison disturbances can often be attributed to the lack of adequate work opportunities. The recent increase in incarceration rates in certain countries has added to these problems, again meaning that there may be too few jobs for prisoners to do. At its worst prison labour can be mundane and repetitive, and may indeed be seen by prisoners themselves as part of the punishment. Alternatively, it can involve more demanding tasks for external contractors, and can play a major role in facilitating post-release rehabilitation. It is nevertheless a common problem that work and vocational training in prisons in general are not adapted to opportunities in the external labour market. Although work should have a vocational purpose, it may be naïve to imagine that a prisoner can obtain a job based on these precise skills after release. The challenge for prison administrators is to ensure that prisoners obtain transferable skills, so that they can compete on equal terms with free labour upon release.

120. There are continuing tensions as to the extent to which prisoners should work not only as part of their rehabilitation, but also for economic purposes. In several countries where there has been a strong emphasis on the cost effectiveness of penal reforms, prison labour has been seen as a means of defraying the costs of imprisonment.

Minimum standards of protection for prisoners

121. The ILO addresses aspects of prison labour in Convention No. 29. However, this instrument was not intended to deal with prison labour in a comprehensive way. While prohibiting forced prison work for private benefit, it has no provisions regarding work in state-run establishments, and indeed exempts the right of the State to impose forced labour from its provisions. Other instruments of international law (generally of a non-binding nature) address the overall concerns of prison labour more directly.⁴²

122. A key challenge is to ensure minimum standards consistent with human dignity for all prisoners at work, protecting them against economic exploitation. This involves at least minimum standards regarding wages, safety and health, and education about workers' rights. "Decent work for prisoners" may be a conceptual starting point. However, this obviously cannot be defined in the same manner as for workers in the free market. Prison labour can never, for example, be described as completely free or voluntary. It may be preferable to talk in terms of a "constrained consent", whereby prisoners are obliged to undertake some form of activity, but have the option to choose from or negotiate a range of activities including education, skills training courses and work.

123. It is important to place labour conditions, and also policy prescriptions regarding them, in a national context. In many developing countries prisoners have to work to secure their basic needs. With living conditions often at a subsistence level, the main incentive for prisoners to work, most often in agricultural tasks, is to satisfy their immediate basic needs. In the wealthier industrialized countries – where the State may be required to feed, clothe and provide such amenities as heating for prisoners – the issues can be different.

124. A key issue is determination of wages and social benefits. In France, since the late 1980s prison administrations have negotiated the labour arrangements for prisoners with private contractors, on the basis of the minimum wage. Prisoners in France are now estimated to have the highest productivity in Europe, at levels comparable to the free market. Both private companies and prisoners also contribute to social security payments, including health and maternity benefits, retirement contributions, and workplace accident allowances.

Approaches to control and supervision

125. Monitoring the work regime of prisoners, whether in public or private establishments, can be a matter of obvious importance. The nature and degree of supervision often depend on the prison's location, the type of work involved and the security rating of prisoners. Australia's inspection system, for example, operates autonomously and reports directly to Parliament. The inspection model sets normative standards based on ILO Conventions, as well as other international statutes and case law. It covers environmental standards, operational safety and health and non-discrimination issues. A unique feature of the English⁴³ penitentiary system is the Prisons and

42. For example, the United Nations Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977. An interesting regional example is the European Prison Rules, Recommendation No. R (87) 3, adopted by the Committee of Ministers on 12 Feb. 1987 at the 404th meeting of the Ministers' Deputies.

43. The reference here is to England and Wales; the penitentiary systems vary in different parts of the United Kingdom.

Probation Ombudsman, to whom prisoners can refer grievances against the Prison Service.

126. In many countries there is no real difference between the supervisory arrangements for public and private prisons, respectively. In the United Kingdom, for example, prison officers serving in private prisons have to be licensed by the public authorities. In some cases, however, the State exercises little authority over the management of private prisons. Notably in cases where prisoners work as trainees in private workshops outside the prisons, there is often no custodial supervision. While prison authorities tend to stress that work is only one aspect of the prison regime and of its inspection services, there can be scope for labour inspection services to train and collaborate with prison authorities on matters which relate strictly to the work regime.

Issues for the private sector

127. There are two main issues with regard to private sector involvement. The first is the actual privatization of prisons. The second is the role that may be played by the private sector in providing employment and skills training for all prisoners.

128. The view is often expressed that prison privatization is most likely here to stay, as part of the political economy of modern times. When prison populations have been increasing sharply in some countries, the private sector has often invested the capital to build new prison facilities. There are clearly mixed views as to the desirability of such a trend. In Germany, for example, a 1998 decision of the Federal Constitutional Court on remuneration of prisoners affirmed that certain prison labour must only be carried out under the responsibility of the prison authorities and under public supervision.⁴⁴ Yet the central issue in the debate on prisons and prison labour today is not so much the merits or demerits of privatization of public services – a matter that goes beyond the scope of the present Report – but rather the securing of minimum safeguards for those detained in all kinds of prison establishment.

129. On the second issue, concerns are expressed by both workers' and employers' representatives.

Workers are strongly of the view that private entities should not profit from prison labour, unless this is derived from decent work performed in conditions that approximate a free employment relationship, and without artificial suppression of wage costs. Employers can point to the considerable difficulties in determining a fair wage for prisoners, when the actual cost of providing training or the establishment of health and safety standards for prisoners can be higher than the cost of providing such services in the free market. There are also concerns that the average productivity of prisoners tends to be low.

130. An added and understandable concern for many private companies is the reputational risk of involvement with prison-produced goods. There have been cases where transparent labelling of prison-made goods can inform consumer decisions.⁴⁵ Yet companies can be faced with a range of questions on which there is limited available information. It is often difficult to establish the exact nature of the work, the operational safety and health standards, the levels of remuneration, or the voluntary nature of the work. Such problems for the supply chain have often dissuaded companies from sourcing materials from prisons. A possible remedy is to encourage prisons to distribute public information, for example through web sites, describing the standards maintained in the prison and the level of vocational training provided to prisoners.

The need for research and information

131. Above all, the ILO meeting identified the need for more solid information on which to base technical advice and policy prescriptions. The ILO was encouraged to undertake a research programme on – among other things – the magnitude and the economic dimensions of prison labour, the impact of different types of work on the welfare and skills of prisoners, the empirical meaning of consent, the empirical reality of conditions of work, good practice in privatized prison labour, and bad practice of exploitative forced prison labour, as well as on the elements of a fair and acceptable prison labour model. These proposals are reflected in the Action Plan contained in Part III.

44. BverfG, 2 BvR 441/90 of 1 July 1998.

45. For example, the penal institutions of a number of federal states in Germany market hand-crafted goods produced by prison workshops and trainee programmes under the brand name Haefitling. Products ranging from clothing to household linen are marketed under a "made in prison" label. Proceeds from sales are divided between the prison, the Government and the Haefitling corporation to cover marketing and distribution costs.

4. Poverty, discrimination and forced labour

132. It is sometimes argued that poverty is one of the basic causes of coercive labour arrangements, and that only by eradicating overall poverty can forced labour be overcome. Conversely, however, poverty and extreme poverty can also be a direct consequence of forced labour practices. The poorest and most vulnerable members of society can be compelled to work, or induced into debt which they or even their descendants find impossible to repay despite very long hours of arduous work. They thus become locked in a cycle of poverty from which they cannot extricate themselves.

133. In some cases, the persistence of forced labour today can be the result of very longstanding patterns of discrimination against certain ethnic and caste minorities. In Asia, the incidence of bonded labour has been and remains particularly severe among the Scheduled Castes and Scheduled Tribes in India; among indigenous minorities in western Nepal; and among non-Muslims in Pakistan. Throughout Africa, contemporary forced labour and slavery-like practices appear to be a particular problem in those countries which have a recent history of slavery, and where there are reports of continuing patterns of discrimination against persons of slave descent. In Latin America, today as centuries ago, the main victims of forced labour are indigenous peoples. At times these are the indigenous groups living in hitherto isolated regions, where comparatively recent settlement has encouraged a demand for cheap labour, and where there is virtually no state presence to provide protection against forced labour. At other times forced labour has been exacted from the indigenous peoples who have long been integrated within the national economy and society, though in a situation of extreme disadvantage vis-à-vis the rest of the population.

134. In all these regions, social reforms have been enacted over the past half century to eradicate servile labour arrangements, including serfdom and unpaid labour in traditional agrarian systems. Such reforms were reviewed in some detail in the first Global Report on forced labour. Land and tenancy reforms in Asia and Latin America, for example, do seem to have eradicated much of the rural serfdom which was so widespread in these regions until the 1950s.

135. At the same time, such land and tenancy reforms, together with the extension of labour law provisions to rural areas, have not prevented the emergence of new patterns or manifestations of forced labour. Moreover, a key feature of contemporary coercion is that victims are very often trapped into these forced labour situations through indebtedness. There are other common features. Women, often young women or even girls, seem increasingly to fall victim to forced labour in the developing world. In addition, forced labour either within or outside the victims' countries of origin tends to affect dis-

proportionately those who seek to earn a livelihood away from their own communities. The victims can be seasonal agricultural workers, who can be transported hundreds or thousands of miles within their own country, to engage in crop harvesting over a possibly limited period. Similar cases of coercive recruitment and debt bondage have affected migrants moving from poorer Indian states such as Bihar to commercial agriculture in the wealthier Punjab; or indigenous workers moving from impoverished highland regions to the new zones of commercial agriculture in Latin America. Similar patterns have been identified in southern African countries, in this case sometimes involving cross-border migration.

136. Forced labour is also being detected in urban and peri-urban areas, often in smaller establishments in the hidden informal economy, but also in some quite large enterprises. A feature of recent bonded labour trends in South Asia has been its growing incidence in a wide range of industries beyond the agricultural sector. There are widespread reports of forced labour practices in assembly plants within export processing zones. Often, these involve the requirement, under menace of a penalty such as dismissal, to perform compulsory overtime without extra payment. In transition countries, moreover, there are reports that workers released from former state enterprises are being subjected to coercive recruitment and employment practices in the emerging private sector.

137. The varied nature of forced labour in developing countries needs to be understood as fully as possible, in order to put forward appropriate remedies. In part, eradicating forced labour will mean breaking down the ties of serfdom which prevent people from earning wages for their work and otherwise participating in the modern market economy. But it will also mean establishing systems of social protection, in order to temper the market forces that can drive people, often former rural dwellers uprooted from their land, into new forced labour situations in urban areas. The matter is thus very much a labour market issue, requiring close attention to the adoption and enforcement of effective labour laws.

138. Finally, questions of individual and social responsibility need to be addressed. Regrettably, even local or national authorities can at times benefit from the forced labour exacted from poor villagers and peasants. Reference has already been made to the extreme case of Myanmar, where state policies permit local authorities to use and benefit from the forced labour of the poor. There are many less well-known cases around the world of local power structures facilitating such exploitation. Government officials, magistrates and police officers, acting in collusion with local elites, can all have a vested interest in the survival of forced labour practices that perpetuate extreme poverty.

139. The importance of addressing forced and bonded labour concerns in poverty reduction strategies and programmes should be self-evident, in particular where a correlation has been clearly established between extreme poverty and the incidence of forced labour. The Poverty Reduction Strategy Papers (PRSPs) of both Nepal and Pakistan, for example, highlight bonded labour as a priority issue. Eliminating forced labour will also facilitate the achievement of the specific targets set out in the United Nations Millennium Development Goals (MDGs).

140. This chapter discusses some of the key issues which will need to be addressed if the eradication of forced labour is to become a more central goal of poverty reduction programmes. It assesses the knowledge base that has been accumulated over the period, together with certain law and policy measures that have been taken by national governments or other concerned actors.

Bonded labour in South Asia

Social composition of bonded labourers, and overall poverty characteristics

141. The analysis can usefully begin with Asian bonded labour, given the very large numbers of poor people affected, and the clear linkages between forced labour and longstanding patterns of discrimination. In India, there are indications from several states that the overwhelming majority of bonded labour victims in agriculture, brick making, mining and other sectors are from the Scheduled Castes and Scheduled Tribes. In Nepal, victims of the *kamaiya* system of bonded labour in western parts of the country have been mainly from among the Tharu indigenous people. In Pakistan, a recent survey of freed bonded labourers found that the majority of those who experienced the most extreme conditions of exploitation were either from lower castes or from a religious minority.⁴⁶ This is consistent with other findings that the most severe rural exploitation occurs in the densely populated, irrigated zone east of Hyderabad city, where there is a large Hindu minority and a significant class of wealthy landowners; but that bonded labour is less likely to arise in the more accessible areas, as well as among the Muslim population in upper Sindh province, where tribal and clan traditions protect the weaker groups.⁴⁷

142. The correlation between poverty and bonded labour is high. Bonded labourers undoubtedly fall

within the 522 million poor people in South Asia.⁴⁸ There is broad consensus in academic literature that workers often enter into bonded labour contracts in order to avert acute poverty or starvation. ILO data show that bonded labourers also remain in poverty while bonded.

Patterns of bonded labour:

Recent developments

143. In India, there have unfortunately been only limited in-depth and sector-specific surveys in recent years. In a number of Indian states, the poorest of the rural population have become increasingly dependent on wage labour, and appear particularly prone to bonded labour resulting from indebtedness. Punjab's agriculture is among the most developed in India. Local workers, including those from Scheduled Castes who have raised their aspirations as a result of higher literacy levels, have increasingly been replaced by migrant bonded labourers recruited through agents in Bihar State. Although a decade ago this particular form of bondage was considered to be on the decline, there have been recent complaints to the National Human Rights Commission (NHRC) amongst both migrant and local workers.⁴⁹ Beyond the agricultural sector, significant bonded labour incidence has been detected in industries including mining, brick making, fish processing, gem cutting, carpet weaving, and such hazardous industries as tanneries and fireworks production.

144. In the brick-making industry, there have been indications from several states that victims are mainly from the Scheduled Castes and Scheduled Tribes. Recruitment takes place through intermediaries who offer advances, with labour contractors receiving a commission through an informal deduction from wages. Workers are paid part of their wages on a weekly or monthly basis, the remainder being adjusted at the end of the season. This binds the worker and family to the kiln during the season, and the spill-over of advances from one season to the next keeps the workers in place. Working hours are long and payments below the legal minimum. Coercion is often used to discipline the workers and to curb protests against frequent breaches of contract. Forty-seven labourers were recently released by the police from a brick kiln in Moga district in Punjab. All stated that they had not been paid their wages for the last four months and were not allowed to leave

46. Human Rights Commission of Pakistan (HRCP): *Abolition of bonded labour: The testimony of freed "haris"* (Lahore, undated).

47. See K. Lieten; J. Breman: "A pro-poor development project in rural Pakistan: An academic analysis and a non-intervention", in *Journal of Agrarian Change* (Oxford), Vol. 2, No. 3, July 2002, pp. 331-355.

48. The poverty estimate is from World Bank: *World Development Report 2000-2001: Attacking poverty* (New York, Oxford University Press, 2001), p. 22.

49. M. Singh: "Bonded migrant labour in Punjab agriculture", in *Economic and Political Weekly* (Mumbai), 15 Mar. 1997. The problem of bondage among migrant labourers in Punjab has been highlighted in several reports by Jai Singh of Volunteers for Social Justice; see J. Singh: "Incidence and magnitude of bonded labour in Punjab", in K. Gopal Iyer (ed.) and NHRC: *Migrant labour and human rights in India* (New Delhi, Kanishka Publishers, 2003).

Box 2.1.
Gender and bonded labour

Little attention has been given, historically, to the particular problems faced by women and girls in bonded labour situations. This reflects their overall subordinate position in the patriarchal societies of South Asia – in which poor women are triply disadvantaged by their gender, by their membership of low castes or other low-status groups, and by virtue of being in bonded or otherwise exploitative labour arrangements. Regardless of whether their involvement in bonded labour is indirect or direct, women appear to suffer disproportionately compared to men. Indirect bondage is characteristic of traditional arrangements in the agricultural sector and also brick kilns: women (and children) are bonded through the male household head, and are not recognized as workers in their own right. They are subject to excessive workloads, often being required (in the case of agricultural workers) also to undertake domestic service in the landlord's home as part of the debt repayment arrangement. There, they are especially susceptible to physical and sexual abuse. Women may be “bought and sold” when landlords agree between themselves to transfer the debt, with no prior consultation with the woman involved.

Direct bondage of women appears to be on the increase. In commercial agriculture, it has been reported that women may be increasingly sought out for bonded labour, in part owing to increased awareness and unwillingness of men to become bonded themselves. In the hybrid cotton seed farms of Andhra Pradesh, India, for example, emerging forms of bonded labour are shorter term, and specifically involve women and girls. Women are also increasingly found bonded in informal industrial sectors, such as in carpet weaving, beedi manufacture, gem cutting and fish processing, often working from home or in secluded workshops. In all these situations, it is far from clear that the woman herself makes the decision to become bonded. It seems likely that, as in most realms of decision-making at household level and beyond, it is the men who have the greater say.

Forms of coerced prostitution also prevail, as in the *chukri* system in Bangladesh and India, in which the young prostitute generally works without pay for one year or even longer, in order to repay a supposed debt to the brothel owner for food, clothes, make-up and living expenses.

Recent evidence from Tamil Nadu, India, throws further light on the gender dimensions of bonded labour. Expenses on gender-related social ceremonies (puberty and marriage celebrations) emerge as the main reason for families to take a bonded debt, followed by maternal and child health expenses. While money-lenders regard women as a “soft target” for usurious lending, employers provide advances to the male family members, who then put the whole family to work. Problems over debt repayment have been linked to a rising trend in domestic violence. Alcoholism, especially of men, is also an increasing problem, leading to even bigger gaps in the household budget and more recourse to loans and advances.

Source: ILO: Rapid assessments of bonded labour in different sectors in Pakistan, DECLARATION Working Papers Nos. 20-26 (Geneva, 2004); L. Da Corta; D. Venkateshwarlu: “Transformations in the age and gender of unfree workers on hybrid cotton seed farms in the Andhra Pradesh”, in *Journal of Peasant Studies* (London), Vol. 28, No. 3, April 2001, pp. 1-36; I. Guérin: *Taking stock of micro-finance progress*, South Asian Project against Debt Bondage, ILO/SFP (draft, February 2004).

the kiln. The raid was conducted following a writ petition in the Punjab and Haryana High Court by two labourers.⁵⁰ In Tamil Nadu, 47 bonded labourers were released from two brick kilns in Kancheepuram district in 2003. Several serious cases have also come to light in Uttar Pradesh.⁵¹ A further complaint has alleged that 50 bonded labourers were kept in a brick kiln in Bhind district in Madhya Pradesh.⁵²

145. In parts of India, bonded labourers in mines also tend for the most part to belong to the Scheduled Castes and Scheduled Tribes. An example is the min-

eral-rich state of Rajasthan, where mining provides work for more than 3 million people, some 95 per cent of these from the abovementioned social groups. Here the mines tend to be small-scale enterprises, operated on leases from the Government, and worked entirely by manual labour with rudimentary technology. A small percentage of the workers come from villages in the mining area, but the vast majority are migrants who retain links with their areas of origin. A survey in 2000 of sandstone mineworkers in Jodhpur showed that the vast majority of workers are

50. “Bonded labourers freed in Punjab”, in *Sify News*, 11 Feb. 2004, at www.sify.com.

51. Nine Muslims were among 20 bonded labourers rescued from a brick kiln in Ghaziabad (NHRC Case No. 112/24/2002-03). The workers had been lured from their home district of Baghpat to work in the kiln and given Rs.2,000 each as an advance. Once they started working, they were paid less than half the promised wages, armed guards were used to restrict their movement and their payment was stopped completely for over a month. When they protested they were beaten and threatened that they would be thrown into the furnace. The NHRC has been monitoring the rehabilitation of the workers.

52. NHRC Case No. 60/12/03-04.

Box 2.2.**Employers' perspectives on bonded labour: The case of Ranga Reddy district in Andhra Pradesh**

According to a recent survey of landowner-employers, traditional forms of bondage no longer exist in this area, because of the growth in demand for male labour in non-farm activities and the legal prohibition on debt bondage. The incidence of the employment of bonded "annual farm servants" to supervise daily labourers and tend livestock also appears to have reduced significantly. The problem these days for landowners is to find workers willing to take up such jobs – they depend on the few families in desperate need of money, as others are simply not willing to enter into this kind of contract. Landlords do not consider improving contractual terms, so as to increase the attractiveness of the job, as a possible solution. The net result is that their land remains underutilized. Employers remark that the difference between bonded labourers eligible for release and rehabilitation and other annual farm servants is not always clear to them. They argue that the only way to attract such workers is to offer interlinked labour and credit contracts. And while they realize that pressure for change is growing, improving agricultural labour conditions is regarded as further compromising their social and economic status, something they are trying strongly to resist.

Case studies carried out in the same area nonetheless attest to the continued, albeit reduced, prevalence of bonded labour *jeetham* contracts and the gruelling working conditions often associated with these.

Sources: S. Subrahmanyam et al.: *Labour and financial markets from employers' perspective: The case of Ranga Reddy District in Andhra Pradesh* (Hyderabad, India, Centre for Economic and Social Studies, unpublished document, December 2003) (the survey covered 150 employers in 21 villages, as well as case studies and focus group discussions in the sample villages); R.S. Arunachalam, J. Viswanathan (eds.): *Thirty bonded labour case studies* (unpublished document).

migrants, and that the system of advances is widespread. Women's wages were around half those of men. A total of 97 per cent of the workers were indebted, most of them being in bondage.⁵³ Debts are passed from one family member to another, or from one generation to the next, and can cause the labourer to be "sold" to another contractor.

146. India's carpet-weaving industry reportedly has a high proportion of children working in conditions of severe bondage. The structure of the industry has changed significantly over the past decade, with a shift towards home-based production, making it more difficult to monitor labour conditions. Recent studies thus contain widely varying estimates of bonded labour. There are still frequent reports of identification and release of child bonded labourers from the core carpet-producing areas.

147. The case of Tamil Nadu illustrates how the knowledge base can be increased progressively, with commitment from the central and state governments, concerned employers' and workers' organizations, and other civil society groups. In 1995, the Supreme Court appointed a commission to verify the contents of an earlier state government declaration that there were only stray cases of bonded labour in Tamil Nadu.⁵⁴ In an exhaustive report based on a large-scale survey, the Commissioners concluded that

there were over 1 million bonded labourers spread over 23 districts and 20 occupations, of whom 10 per cent were bonded child labourers. Bonded labourers from the Scheduled Castes and Tribes and the Most Backward Castes comprised 76 per cent of the total. The bondage was almost invariably found to be based on debt. Attention has recently been focused on problems in rice mills in the state. In one area, over 1,000 immigrant families from other Tamil Nadu districts were in bonded labour, confined in the mill premises.

148. In Nepal, although attention so far has been focused almost exclusively on the *kamaiya* system in the west of the country, there is growing evidence that similar problems exist nationwide. The number of persons affected by bonded labour in agriculture alone has been estimated by independent analysts at some 200,000,⁵⁵ many times the number of *kamaiyas* so far identified.

149. Pakistan has indicated a firm commitment to tackling bonded labour. In 2001, the Federal Cabinet approved a National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers (NPPA), which states the Government's commitment to the abolition of forced and bonded labour, lays out the components of a national time-bound strategy to achieve this end, and

53. Mine Labour Protection Campaign (MLPC): *Bonded labour in small-scale mining*, Jodhpur, Rajasthan, India (unpublished document).

54. Affidavit of the Government of Tamil Nadu in Writ Petition No. 3922 of 1985. See Supreme Court of India: *Report of the Commission on Bonded Labour in Tamilnadu* (Madras, 31 Oct. 1995).

55. S. Sharma; R. Sharma: *Findings on debt bondage: Long-term farm labour systems in Kavre Palanchok and Sarlahi Districts, Nepal*, South Asian Programme against Debt Bondage, Social Finance Programme (Geneva, ILO, 2002).

also provides for a national survey. Given the difficulty of carrying out a reliable and large-scale national survey, the Ministry of Labour, Manpower and Overseas Pakistanis decided first to undertake, with ILO support, a series of rapid assessments of labour arrangements focusing on bonded labour in ten different economic sectors, as well as a small-scale sample survey of sharecroppers (*haris*) and brick kiln workers.⁵⁶ This could provide the basis for a national survey at a later date, and in the shorter term would deepen understanding of the nature and characteristics of bonded labour in the sectors concerned.

150. The survey of brick kiln workers in Punjab and sharecroppers in Sindh illustrates some patterns of deception and coercion in the bonded labour relationship. Some 40 per cent of brick kiln workers and 45 per cent of sharecroppers had no understanding of their creditors' calculations concerning debt, the terms of which were dictated unilaterally by the employer or landlord. Many confirmed that they were not free to seek alternative employment while their debts remained unpaid. Between one-fifth and one-third also reported verbal or physical coercion on the part of the landlord or employer. Household illiteracy was a key indicator of both destitution and bondage. In the case of brick kiln workers, low caste status was unambiguously associated with a higher incidence of bondage. For sharecroppers this link was less clear, although a previous survey found that the most vulnerable sharecroppers belonged to low-caste non-Muslim communities.⁵⁷

151. Of the ten sectors studied, the problem of labour bonded by debt and also subject to coercive and abusive labour arrangements was found to be significant not only in agriculture and brick making, but also in mining and quarrying, carpet weaving and domestic work. These are all labour-intensive sectors. Some problems have also been detected in both marine fisheries and construction, particularly in remote areas.

152. By identifying some different characteristics by sector, the Pakistan studies have helped point to the complexities of eradicating often deeply rooted patterns of coercion. In *agriculture*, bonded labour was most prevalent among sharecroppers in parts of Sindh and Punjab provinces, but in the latter case

was also found in a severe form among a category of permanent agricultural workers (*seeris*). In these cases the bonded labourers usually belonged to the lowest castes or non-Muslims as the weakest social groups, a vulnerability reinforced by the fact that their homesteads were located on the landlord's property (the threat of eviction proving a powerful means of labour discipline). Women are at particular risk from ruthless landlords or employers. Cases of sexual abuse of women by landlords were reported by over half of the more than 1,000 households interviewed in a survey of freed *haris* at their camps near Hyderabad. Yet it appears that by no means all *haris* are harshly treated. Many landlords observe that they have no choice but to extend loans to the *haris* in order to obtain a labour supply, and would welcome a solution to this problem. Interestingly, the assessments found little evidence of bonded labour in those parts of the country where the tribal system served to mitigate potential abuse. Casual labourers in agriculture often took small advances, but these were generally repaid from wages at the end of the contract.⁵⁸

153. In the *brick-making industry* virtually all unskilled and semi-skilled workers received advances from kiln owners through contractors known as *jamadars*. For the large number of local labourers, and also the increasing numbers of Afghan refugees, the advances are generally kept within repayable limits. However, for the low-status migrant *pathera*⁵⁹ families, debts tend to be much higher. They cannot be repaid because of the low prevailing piece-rates, well below the legislated rates of pay for the sector and also the minimum wage. Furthermore, the labour of women, children and adolescents is rarely acknowledged, and is not remunerated separately. Internal migrants who are far away from their local communities and social support systems and workers who live on-site with their families within the kiln premises are particularly vulnerable to exploitation.⁶⁰ Most indebted workers are convinced that, if they attempt to flee, they will be tracked down and forced to return.⁶¹

154. In *mining and quarrying*, contracted workers receive substantial advances from a labour contractor.⁶² These are highest for the coal mines of Balochistan,

56. Bonded Labour Research Forum in collaboration with the Ministry of Labour, Manpower and Overseas Pakistanis, Government of Pakistan and International Labour Organization: *Rapid assessment studies of bonded labour in different sectors in Pakistan* (2004). The studies were also issued as DECLARATION Working Papers Nos. 20-26 (Geneva, ILO, 2004). Federal Bureau of Statistics, Government of Pakistan; ILO: *Survey of bonded labour in two sectors in Pakistan: Brick kiln workers (Punjab) and sharecroppers (Sindh)*, 2002 (unpublished document).

57. Lieten and Breman, op. cit., p. 341, footnote 10.

58. G.M. Arif: *Bonded labour in agriculture: A rapid assessment in Punjab and North West Frontier Province, Pakistan*, Special Action Programme to Combat Forced Labour, DECLARATION Working Paper No. 25 (Geneva, ILO, 2004), p. 14.

59. The men, women and children who prepare unbaked bricks, including preparation of clay.

60. It is interesting to note that migrants from Afghanistan appear to have been less subject to highly exploitative bonded labour situations. This may be in part because they avoid high degrees of indebtedness, and also because support networks function effectively in the villages where they are located.

61. Pakistan Institute of Labour Education and Research (PILER): *Unfree labour in Pakistan: Work, debt and bondage in brick kilns*, Special Action Programme to Combat Forced Labour, DECLARATION Working Paper No. 24 (Geneva, ILO, 2004).

62. The advances are estimated to range from PRs.5,000 to 50,000.

where the working conditions are the most difficult, and where there is a need to retain an experienced labour force for mines of high-quality coal. Most of the workers migrate from the neighbouring North-West Frontier Province (NWFP). All but local miners are estimated to take advances, which are intended to be repaid from monthly wages, although in some cases wage payment is withheld until the coal has been sold. With advances building up through charges for subsistence goods and occasional “fiddling” of the accounts, there is a familiar pattern of accumulated debt leading to debt bondage. Miners are not free to seek employment elsewhere. Those who attempt to leave an employer are likely to be threatened with, and in some cases actually punished by, detention and physical violence.⁶³

155. In some industries, it is the effects on children that are particularly harsh. This seems to be the case of *carpet weaving*, where only 8 per cent of sampled workers were found to be in debt bondage. In the case of the workers who had taken large advances, for which high interest rates were charged, the workers faced harsh conditions, including very long working hours, and abusive behaviour from employers. The most serious instances occurred when parents accepted advances against the labour of children, who received half the wages paid to older workers while also working longer hours. They had to live on site and were not allowed to leave the premises until the debt had been fully repaid.⁶⁴

156. Mention should also be made of *bonded domestic labour*. The Pakistan assessment found clear evidence of this, affecting mainly women and children in rural areas. Wages are usually paid in kind and are extremely low. The system of *parchi charhana* means that the servant has to compensate the employer for any goods damaged during her service, so debt can rapidly accumulate. Domestic workers complain consistently of sexual harassment and physical violence. Living in the household, they are effectively on call 24 hours a day. In rural areas, there are important linkages between the bonding of domestics and bonded labour in tenant agriculture more generally, in that the rural domestic workers are often family members of sharecroppers indebted to landlords. As observed in the assessment of this sector:

If a family gets into debt with a landlord, its members surrender their labour and control over their lives to their employer. As he uses their labour in payment for their debt, he exercises the right to decide who will work with him and which members of the family he may wish to use in his bargaining with other landed families ... A bonded servant can also be “gifted” from one landlord to another. Once under the new master’s control, the domestic servant, usually a girl, has to do housework and may also be used for sex. The servant cannot go to another house or work anywhere else without leave from the employer.⁶⁵

Recent experience with rehabilitation: India, Nepal and Pakistan

157. The Government of India has given considerable priority to rehabilitation of bonded labourers after their release. Workers’ organizations supported by other civil society groups and NGOs can also record some successes. Yet the experience points to potentially serious problems of sustainability, when the resources allocated to rehabilitation are insufficient, and when the approaches do not provide for an alternative livelihood in the long term. There have been a disturbing number of cases where, under such conditions, released persons have relapsed into bondage.

158. The Indian Federal Government’s Centrally Sponsored Scheme provides for a grant to each released bonded labourer, a small portion of which is to be provided immediately upon identification.⁶⁶ Government policy also seeks convergence with other rehabilitation schemes currently in existence. Guidelines have been issued to state governments to dovetail the scheme with other ongoing poverty alleviation and rural development programmes and special programmes for Scheduled Castes and Scheduled Tribes.⁶⁷ Limited information is available on recent progress with rehabilitation. A recent Supreme Court ruling pointed to a continued need to focus on rehabilitation and related aspects of bonded labourers which, in its view, had been given inadequate consideration up to now.⁶⁸ The Court specifically recommended greater private sector and

63. A. Saleem: *A rapid assessment of bonded labour in Pakistan’s mining sector*, Special Action Programme to Combat Forced Labour, DECLARATION Working Paper No. 20 (Geneva, ILO, 2004).

64. Z. Mueen Nasir: *A rapid assessment of bonded labour in the carpet industry of Pakistan*, Special Action Programme to Combat Forced Labour, DECLARATION Working Paper No. 23 (Geneva, ILO, 2004).

65. Collective for Social Science Research, Karachi: *A rapid assessment of bonded labour in domestic work and begging in Pakistan*, Special Action Programme to Combat Forced Labour, DECLARATION Working Paper No. 22 (Geneva, ILO, 2004), p. 14.

66. As of 31 Mar. 2003, central assistance amounting to approximately Rs.650 million had been provided under the scheme (Government of India Report on Convention No. 29 for the period 1 June 2002 – 31 May 2003). Central funding is matched at state level on a 50:50 basis. Each identified bonded labourer within a household is entitled to receive rehabilitation assistance, but in practice often only the head of the household is awarded the grant.

67. Government of India comments dated 10 Dec. 2001 on observations forwarded by the ICFTU.

68. 2004 Indlaw SC 382. Public Union For Civil Liberties v State of Tamilnadu and Others. 5 May 2004. Writ Petition (Civil) 3922 of 1985. The original petition related to the plight of migrant bonded labourers from Tamil Nadu subjected to exploitation in Madhya Pradesh, later expanded to cover the problems relating to bonded labourers in all states and union territories.

NGO involvement, with state support and supervision.⁶⁹ The NHRC has been encouraging state governments to rehabilitate bonded labourers through sustainable cooperative schemes.

159. Recent NGO assessments in Tamil Nadu paint a mixed picture. There have been some successful cases of rehabilitation. In other cases, released bonded labourers have been unable to use their rehabilitation grants effectively owing to lack of guidance, have relapsed into bondage with either the same or a different employer, and in some cases have not received the rehabilitation assistance to which they are entitled.⁷⁰ There are nevertheless success stories resulting from the efforts of government and NGOs. One example is the case of the Kol tribals engaged in mining in Allahabad, Uttar Pradesh. Supported by both the administration and local organizations, the tribals gained mining rights in a number of villages, overcame the opposition of contractors and nearly trebled their income over a short period of time, thus drastically reducing bondage in the area. In a similar case, 11 families freed from bondage were given lease rights to a quarry in Shivpuri district of Madhya Pradesh. This resulted in both higher incomes for the workers and high royalties for the Government. The district administration implemented parallel support schemes, including a land grant together with provision of equipment and a school.⁷¹

160. In Andhra Pradesh, a successful cooperative farm of freed bonded labourers has been established in Ranga Reddy district. In 1985, 18 released bonded labourers were each given one acre of land by the Government for rehabilitation purposes. A small NGO in the area helped the beneficiaries form a cooperative farm and obtain agricultural extension services. A loan for installing a tube well was later secured from the Scheduled Caste Finance Corporation, enabling them to irrigate the land and produce two crops per year. Fifteen years later the loan had been repaid in full, and each family can now record adequate incomes. They are now planning to increase incomes further through dairy farming. Villagers proudly relate that there is no longer any bonded labour, and that their children are attending schools so they will never fall into bondage themselves.⁷²

161. In Karnataka State, the NGO Jeeta Vimukti Karnataka (Jeevika), has worked since 1988 in

advocacy and rehabilitation of bonded labourers. It helped set up a trade union of bonded labourers and landless agricultural workers, which now boasts a membership of around 20,000 in seven districts. Jeevika has supported access to government anti-poverty programmes, promoting land-based rehabilitation and savings and credit self-help groups, linking these to local banks, and providing bridge education classes to mainstream bonded and other working children into government primary schools.⁷³

162. In Nepal, significant progress has been made in identifying the *kamaiya* forms of bonded labour, and in implementing rehabilitation programmes. A *kamaiya* Labour (Prohibition) Act was promulgated in 2002, aiming to make the necessary provisions to prohibit the *kamaiya* system and rehabilitate freed *kamaiyas*. The Act itself sets out the role of Freed *Kamaiya* Rehabilitation and Monitoring Committees to this effect: implementing government-approved programmes for rehabilitation, monitoring whether persons are being employed as *kamaiya* workers, making recommendations to the Government and to financial institutions to supply the necessary loans for income-generating enterprises, and coordinating activities in such diverse fields as housing, education and skills training. Overall development programmes have since been coordinated by the Ministry of Land Reform and Management, reflecting the importance attached to land access for effective rehabilitation.

163. By 2004, over 90 per cent of the *kamaiyas* identified as landless or homeless had received small parcels of land.⁷⁴ However, land was not necessarily allocated in their home villages, but wherever the district government could find land available for distribution. A fixed amount of cash support per family has also been provided for housing construction. Skills training has been provided to at least 2,000 individuals, in agriculture and other trades, enabling a certain amount of access to non-farm employment. Former *kamaiyas* have also benefited from public infrastructure programmes, including rural roads and irrigation. A range of NGOs, several of which had programmes in the region before the abolition of the *kamaiya* system, have also implemented support programmes targeted at former *kamaiyas*. Some have integrated approaches, addressing a range of areas including education, health, livelihood, shelter and

69. The ruling further directed the state governments and union territories to constitute Vigilance Committees at the district and sub-divisional levels within a period of six months; make proper arrangements for rehabilitating released bonded labourers; chalk out a detailed plan for rehabilitating released bonded labourers either by itself or with the involvement of philanthropic organizations or NGOs within a period of six months; to submit a plan for sharing the money under the modified Centrally Sponsored Scheme, where the states wish to involve such organizations or NGOs; and to make arrangements to sensitize the District Magistrate and other statutory authorities/committees in respect of their duties under the Bonded Labour System (Abolition) Act.

70. Informal survey of 698 bonded labourers identified and released between 1997 and 2002 in six districts of Tamil Nadu, conducted in 2004.

71. R.S. Srivastava: *Bonded labour in India: Its incidence and pattern*, paper prepared for the ILO (unpublished document, undated).

72. Personal account of ILO staff member.

73. K. Kamal Prasad: "Jeevika's approach and experiences in rehabilitation of bonded labour in Karnataka" (unpublished document, 23 June 2004).

74. The number of landless or homeless former *kamaiya* households was recorded as 13,461. Ministry of Land Reform and Management: *A report on abolition of kamaiyas and their rehabilitation programme* (Kathmandu, July 2004) (in Nepali).

infrastructure in the resettlement areas, as well as advocacy and organization. Others focus on particular aspects. Yet very few of the organizations appear to be addressing employment as a central concern.

164. The past three years' experience in Nepal points to some of the difficulties in effective rehabilitation, albeit in a context of civil insurgency that has created particular problems. On the one hand, there has been a need to take rapid measures, because any delay in interventions to solve the problems would provide rebel groups with fertile ground to intensify activities among the freed *kamaiyas*. On the other hand, the insurgents have placed severe restrictions on the freedom of movement of people and the flow of resources, thereby making it more difficult for interventions to reach their target groups.

165. It is significant that the Government of Nepal has taken on *kamaiya* rehabilitation as a key commitment, illustrated by the special allocation in the budgets of recent years. The initial release of *kamaiyas* from their bonded condition appears to have been achieved successfully. The commitment of the central and district governments paved the way for donor support, and for interventions by a significant number of inter-governmental and non-governmental organizations. The land allocation, while encountering some delays, has certainly helped reduce vulnerability and the risk of reverting to the old system. Yet there are indications that, in the absence of alternative livelihood opportunities, former *kamaiyas* are now entering into labour and tenancy relations that have at least some elements of the former exploitation. Almost one-third of the freed *kamaiyas* are reported to have begun to rent land from landowners. Of these, almost half the tenants provide free labour services to landowners as a form of payment. In addition, there are continuing or emerging problems of child labour. Both the uncertainty with regard to adult employment opportunities and the conditions attached to land rental have most likely contributed to the persistence of this problem. There are concerns that extensive assistance to freed *kamaiyas*, from both the state and civil society organizations, can create a feeling of discrimination among other poor and deprived social groups. This is particularly so where they have been settled with land grants outside their home villages, leading to competition over infrastructure such as schools, health services and drinking water facilities.

166. In Pakistan, some important initial work has taken place under an ILO-supported project. Since April 2002 the National Rural Support Programme (NRSP) has been active in seven camps near Hyderabad in Sindh province, to which former

bonded *hari* families have fled following escape from their landlords. An analysis from a small sample shows that the overwhelming majority of these families are socially marginal Hindus or Christians from low castes or other minorities. The overall aim of the project is to enable some 750 freed *hari* families to establish sustainable livelihoods and thus prevent them from falling back into bonded and other exploitative labour arrangements.

167. Conditions are poor in these camps, where all residents are illegal squatters vulnerable to eviction at any time, living in basic temporary shelters with few assets. Few have any education or marketable skills other than in agriculture; there is chronic under-employment, with daily wage and migratory labour providing the main source of income. Many have borrowed money to meet basic subsistence needs, although few families have so far relapsed into bonded labour.⁷⁵ But they borrow at high interest rates from moneylenders, or from shopkeepers and cloth merchants who charge inflated prices for goods sold on credit.⁷⁶ Microfinance and other services are delivered through self-help groups (SHGs) within the camps, comprising over a thousand women and men in separate groups, with an initial emphasis on savings. Interventions include free health care, the popularity of which has made it an excellent entry point for other activities, including training in community management skills and record-keeping; social empowerment through theatre, pictures and group discussions; non-formal education for children; teacher training and provision of school materials; and vocational training in locally marketable skills for self-employment.

168. A particularly innovative element has been a new land-lease scheme. Having a land title and permanent address makes it much easier for camp residents to secure national identity cards (NICs), which are necessary for accessing a range of rights and benefits. A scheme was therefore devised to purchase and lease to beneficiaries a 20-acre plot of land, the costs to be repaid over a one-year period through a special credit product. Four hundred plots were laid out in three different sizes to cater for different family needs and preferences, and basic land development undertaken. Camp committees have facilitated the identification of families for voluntary resettlement. As of late 2004, some 50 families had moved to the new site. An application by the NRSP and Sindh provincial government to the Bonded Labour Fund for financial support for permanent house construction is currently being processed. A community school is running on the site and the project is working to start up new SHGs and other activities, including application for NICs.

75. Small-scale study conducted by the NRSP in Oct. 2003 on "Creating a safety net for former bonded labourers in Hyderabad, Pakistan" (unpublished). A study by the HRCP indicated that 23 out of 100 interviewed freed *haris* knew of a *hari* falling back into bondage, most of whom were kidnapped and forced to return. This fear remains a reality for many camp residents. HRCP: *Abolition of bonded labour*, op. cit. Interestingly, none of the respondents had ever heard of Vigilance Committees, and they would rather turn to NGOs for rehabilitation assistance.

76. Guérin, op. cit.

169. The NRSP experience has demonstrated the scope for working with such marginal and discriminated groups as freed *haris*, normally excluded from mainstream development programmes. Despite illiteracy, lack of experience in business and a history of oppression, camp residents have proved able to organize, save and initiate small income-generating activities. Frequent in-migration of newly released families to the camps points to an urgent need to initiate preventive work in their source areas.

*Integrated action against bonded labour:
Recent approaches and outstanding challenges*

170. The first Global Report on forced labour called for a holistic approach to eradicating Asian bonded labour, involving a wide range of measures and institutions. Some progress can be recorded since 2001. In Pakistan the Federal Cabinet approved the National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers (NPPA) as early as September 2001. The Policy clearly states the Government's commitment to the abolition of forced and bonded labour, the components of a national strategy to achieve this end, and an action plan that specifies the activities, timeframe and roles and responsibilities of the respective partner organizations. The Policy represents a bold step, acknowledging as it does the prevalence of bonded labour, particularly in agriculture and brick kilns, and committing the Government to concrete and comprehensive action on a range of fronts.

171. The key elements of the strategy and Action Plan are as follows:

- constitution of a multi-stakeholder National Committee for the Abolition of Bonded Labour, chaired by the Labour Minister and including workers' and employers' representatives, as well as representatives of civil society, to oversee implementation of the Plan;
- restructuring and activation of district-level Vigilance Committees, under the District Nazim,⁷⁷ responsible for local-level implementation of the Bonded Labour System (Abolition) Act, 1992, in particular the release and rehabilitation of bonded labourers, together with the judiciary and other authorities;
- registration of all brick kilns;
- a campaign for raising awareness of the public, officials and implementation agencies on bonded labour issues and the provisions of the law and policy;
- undertaking a national survey of the extent of bonded labour;
- creation of legal aid cells;

- implementation of a relief package and rehabilitation programme for freed bonded labourers and family members, including education and vocational training, microcredit and promotion of self-employment opportunities.

172. The Plan acknowledges the important role to be played in this work by trade unions, employers' organizations, NGOs and community-based organizations. Even prior to the adoption of the NPPA, and as provided for in the Bonded Labour System (Abolition) Rules, 1995, the Government of Pakistan set up a fund for the education of working children and rehabilitation of freed bonded labourers, commonly known as the Bonded Labour Fund (BLF). The Fund was constituted with an initial outlay of PRs.100 million granted by Pakistan Bait-ul-Maal.⁷⁸ Significant funding was thus available, in principle at least, to allow for implementation of the Plan. In addition, the Plan provides for contributions from other sources, including the Workers' Welfare Fund, donor agencies including the ILO, and donations from philanthropists and employers' organizations. The fact that Pakistan's PRSP highlights bonded labour as a priority issue should increase the prospects of significant donor funds being directed at solving the problem.⁷⁹

173. Implementation of the NPPA was slow at first, in part owing to administrative impediments to effective disbursement of the Bonded Labour Fund. At a meeting held in January 2004, the National Committee reviewed progress in the implementation of the NPPA. Decisions were taken to revitalize the process, including the creation of legal aid cells, provision of low-cost housing to freed bonded labourers and a commitment to urgent notification and training of Vigilance Committees.

174. In India, there have been some federal initiatives to improve the application of existing law and policy, including the measures taken by the Supreme Court and the NHRC. There have also been important developments at the state level. The state government of Andhra Pradesh, for example, has proposed a time-bound commitment to eliminate bonded labour by 2007. A state-level Convention on Bonded Labour was held in November 2003 to raise awareness among state officials and discuss the interventions required for the elimination of bonded labour in the state.

175. While these are positive developments, South Asia has still to come fully to grips with continuing and often severe problems of bonded labour. There are very real problems of relapse of released victims into bonded labour when they simply cannot survive in the free labour market. Moreover, effective action is still impeded by ongoing controversies, reflected in judicial decisions, as to what exactly constitutes a bonded labour situation. The combination of wage

77. The District Nazim is the elected head of the District Administration, as established under the Devolution of Power Plan adopted in 2000.

78. A public welfare fund financed through a tax collected under Islamic law.

79. Government of Pakistan: *Accelerating economic growth and reducing poverty: The road ahead*, Poverty Reduction Strategy Paper (Dec. 2003), p. 102.

advances and non-payment of the minimum wage, as specified in national legislation against bonded labour, potentially extends coverage of the law to many millions of agricultural labourers, sharecroppers and informal sector workers indebted in some way to their landowners or employers.

176. This is why, while action against the entire gamut of bonded labour systems is essential, it would appear necessary to focus urgent attention on the most acute cases. These can include long-term and inter-generational bondage, especially affecting women and children; cases of outright physical abuse and coercion; or economic sectors or geographical areas where bonded labour has driven families furthest below the poverty line. The priorities will have to be determined at the national level by governments, together with employers' and workers' organizations and other civil society actors. But arguably, for the national and international agencies concerned with the eradication of extreme poverty by the year 2015, there can be no greater challenge in the world today.

Latin America: Focus on debt bondage and indigenous peoples

177. The first Global Report on the subject already drew attention to forced labour abuses against, in particular, Latin America's indigenous peoples.⁸⁰ A number of Latin American governments have since decided to confront forced labour, notably in their agricultural sectors. Following the experience in Brazil, the Governments of Bolivia, Guatemala, Paraguay and Peru have undertaken preliminary research in cooperation with the ILO. Of these, the Governments of Bolivia and Peru in particular have decided to develop, jointly with workers' and employers' organizations, new policies to tackle forced labour.

178. This is not to suggest that contemporary forced labour affects only Latin America's indigenous peoples or remote rural areas. Indeed, at a series of workshops held in Central American and Andean countries in 2002 to provoke reflection on contemporary problems of forced labour and their root causes, other concerns were also identified. These included coercive conditions in privatized mines; abuse of compulsory military service; coercive conditions (including forced overtime) in the *maquiladora* assembly industries in export processing zones; forced labour

affecting domestic workers; and, more generally, causal links between extreme poverty, discrimination, a loosening of labour laws, and new patterns of forced labour. The following paragraphs nevertheless focus on forced labour situations affecting indigenous peoples in selected countries where the knowledge base has expanded during the period under review.

179. Indigenous peoples in Latin America often face both discrimination and poverty. The ILO's 2003 Global Report on discrimination at work already pointed out that "in Latin America, indigenous poverty can be traced to the discrimination indigenous people face in the labour market and to the constraints in access to, and control over, land".⁸¹ In 2001, Bolivia's PRSP also pointed to the presence of a "high degree of discrimination and probably segregation" in a country where the proportion of those below the poverty line was over 80 per cent for a mainly indigenous rural population.⁸²

180. Despite the many positive measures taken in some of these countries towards reducing poverty and discrimination, significant pockets of forced labour persist in rural areas. Substantial numbers of mainly indigenous agricultural workers are in conditions of debt bondage, mostly as a result of wage advances made to workers by private labour contractors. In particular, this is the case in the Chaco region of both Paraguay and Bolivia, and in the Amazon forest region of both Bolivia and Peru. The extent to which indigenous peoples of these regions are subjected to forced labour clearly depends on the degree of contact with outside settlers in their areas of traditional habitation, and also on the labour requirements for diverse economic activities. For well over a century, there have been reports of indigenous enslavement in parts of the Amazon, for example during the rubber boom. In other instances, however, the growth of forced labour appears to be a more recent phenomenon.

181. There are fairly clear reasons why indigenous peoples in remote areas are particularly susceptible to coercive recruitment and debt bondage. A weak state presence, together with low investment in educational services and other facilities (not to mention culturally biased curricula) means that, with poor literacy and numeracy, they are usually ill equipped to deal with outsiders, who can easily deceive them into debt bondage. Another important source of indigenous vulnerability is the lack of official identity

80. *Stopping forced labour*, op. cit. (especially pp. 22-23).

81. ILO: *Time for equality at work*, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I(B), International Labour Conference, 91st Session, Geneva, 2003, p. 30, para. 96.

82. Republic of Bolivia: *Poverty Reduction Strategy Paper (PRSP)* (La Paz, March 2001), paras. 81 and 91. A similar correlation between ethnicity, discrimination and poverty has been detected in other Latin American countries with substantial indigenous populations. In Peru, the World Bank found that poverty rates in the highlands and forest are nearly double that of coastal regions and that indigenous peoples have a very high poverty rate of 70 per cent. In Paraguay, although the World Bank's Country Assistance Strategy avoids using the term "discrimination", it indicates that "those who speak only Guaraní tend to have much lower incomes" (World Bank: *Country Assistance Strategy for the Republic of Paraguay 2004/2007* (Washington, DC, 2003), p. 18). Finally, the Guatemala poverty assessment (GUAPA) found that 76 per cent of indigenous people were poor, and that poverty could be explained by ethnic exclusion (World Bank: *Poverty in Guatemala*, Report No. 24221-GU (20 Feb. 2003), pp. ii-iii).

documents, rendering them “invisible” to national authorities, and making it virtually impossible for them to denounce forced labour abuse and seek remedial action. Although many Latin American States have amended their Constitutions or adopted special laws in order to demarcate indigenous land or territorial areas and to safeguard the natural and environmental resources within them, there have been severe difficulties in implementing such ambitious legislation. At the same time, increasing exposure to a monetary economy can make indigenous peoples, especially the “isolated communities” of the Amazonian lowlands, easy prey for unscrupulous contractors.

182. A study carried out in Paraguay focused on conditions of employment and work of indigenous people in the Chaco region.⁸³ The authors interviewed key informants and held meetings with small indigenous groups. Data were also obtained through a review of anthropological studies and of the 2002 Indigenous Census. Overall, indigenous people report poor working conditions and salaries below the minimum wage, with many claiming to be paid much less than their “white” colleagues for the same work. Discrimination is most acute in the large and remote cattle farms of the Chaco region, where farms employ both casual and permanent labour. Interviews suggest that the provisions of the Labour Code are seldom implemented, and it is not unusual for indigenous workers to be remunerated for a few months of work with a pair of trousers, a shirt, and a pair of boots. Women are sometimes not remunerated at all.

183. Discrimination explains the persistence of debt peonage in the large cattle farms of the Chaco. The Labour Code requires that farmers provide workers with a minimum wage as well as with “meat, milk, and other basic food in sufficient quality, quantity and variety to ensure adequate nutrition for the worker and his family” (section 169). In practice, however, the food provided by employers is often insufficient and its price inflated. Workers have no other option but to buy additional food from the ranch’s supply store (*almacén*). Because wages are so low and the prices in the store so artificially high, indigenous workers have to buy on credit and continue working on the farms to pay off their debts. Forced labour in the Chaco is also rooted in unequal land distribution and weak institutional capacity, contributing to impunity for the perpetrators. In the absence of any significant labour union to defend workers’ interests, employers have complete discretion over the implementation of labour regulations.

184. In Bolivia, the research focused on agricultural forced labour in the Chaco region, and in tropical areas of Santa Cruz and the northern Amazon.⁸⁴

In the Bolivian Chaco, the living and working conditions of Guaraní indigenous people are similar to those in Paraguay. Men are typically paid between US\$1 and US\$2 per day; women receive half this amount, and working children nothing at all. An official report of an Inter-Ministerial Commission had already documented servitude and other labour exploitation in the Chaco in 1999, finding extensive evidence of indigenous debt bondage following the payment of advances in cash and in kind. Altogether, there could be several thousand indigenous Guaraní still in forced labour situations today in the large farms of the Chaco, with sometimes entire communities held captive by regional *caciques* through debt bondage and open violence. Recently, however, certain measures have begun to have a positive impact. First, the Permanent Assembly for Human Rights of Bolivia and the Vice-Ministry of Human Rights have opened an office in the region with the assistance of the Swiss Agency for Development and Cooperation (SDC). Second, NGOs and indigenous organizations have started a campaign to free the most exploited workers, provide them with small plots of land, and inform indigenous workers of their rights.

185. The most acute forms of forced labour have been documented in the Chaco, but the study showed that debt bondage also exists in other parts of the country, possibly affecting much larger numbers than in the Chaco itself. In the region of Santa Cruz and in the northern Amazon, the study has revealed that some intermediaries recruit workers in their places of origin, before the start of the harvest, by offering wage advances which have to be repaid through labour during the harvest. This bonds workers for a relatively short period of time. In many instances, however, wages are below the promised level and also partly retained on an arbitrary basis by the employer, meaning that workers incur a fraudulent debt as they are obliged to buy tools and subsistence goods at inflated prices. Those unable to repay fully are forced either to return the following year or to continue working until their debts are considered as paid.

186. In Peru, research has concentrated on forced labour in the Amazon basin, again the result of the illegal *enganche* system of labour contracting.⁸⁵ The *patrones* (subcontractors) establish their labour camps in the forest and typically recruit between ten and 40 workers, mostly from distant cities, who receive wage advances of between 10 and 20 per cent of their total pay. Once at the camp, they incur a continuous stream of expenses, as necessary tools and living items are added to their bill at inflated prices. When workers become aware of the deception and try to

83. E. Bedoya Garland; A. Bedoya Silva-Santisteban: *Peonaje por deudas y marginación en las estancias ganaderas del Paraguay* (unpublished document, 2004), study commissioned by the Government following a request by the ILO Committee of Experts on the Application of Conventions and Recommendations for information on the possible use of forced labour against indigenous people in the Chaco.

84. idem: *Enganche y servidumbre por deudas en Bolivia*, DECLARATION Working Paper (forthcoming).

85. idem: *El trabajo forzoso en la extracción de la madera en la Amazonia peruana*, DECLARATION Working Paper (forthcoming).

escape, the *patrones*, who are usually armed, use a variety of means to retain the workforce, including death threats, restriction of movement and retention of pay. There could be as many as 20,000 workers in such forced labour conditions, many accompanied by their wives and children.

187. Indigenous communities in the Amazon forest were also found in coercive forms of labour. *Patrones* make initial advances of food or other items in exchange for a certain quantity of wood. In the mildest form of deception, the *patrones* considerably overprice these goods, taking advantage of the community's ignorance of their real value. In a more serious form, the *patron* turns to a practice called "*castigo de madera*", in which the wood is undermeasured and undervalued. Community members are required either to provide greater amounts of wood or to work without pay in nearby logging camps. Such fraudulent debt can keep indigenous workers in bondage for years or even generations, with wives and children also expected to provide free labour.

188. This rural forced labour is related to unsustainable environmental practices. The Amazon forest appears to be a magnet for forced labour. Labour scarcity, geographic isolation and the absence of protective state institutions combine to make this area a fertile ground for the trafficking and exploitation of unprotected workers. Many victims are used by unscrupulous farmers for the purpose of deforestation on unlawfully occupied land. Sometimes this logging takes place within national indigenous community reserves and also involves the falsification of documents authorizing wood extraction or concessions. These practices deplete one of Latin America's most precious natural resources.

189. A similar situation exists in Brazil, where the existence of what is termed "slave labour" (*trabalho escravo*) has been officially recognized in Brazil since 1995. The term "slave labour" refers to degrading work conditions and the impossibility of leaving the employer owing to fraudulent debts and the presence of armed guards. This is indeed the main feature of forced labour in rural Brazil, where workers have been immobilized through physical coercion until they can pay off such fraudulent debts. Since then increasingly strong measures have been applied towards its eradication, with ILO support.

190. It is estimated that as many as 25,000 persons are subjected to such "slave labour" conditions, mostly in the Amazonian states of Pará and Mato Grosso. Many of these workers, mostly men, are trafficked by intermediaries called "*gatos*" who recruit workers in urban centres in north-eastern Brazil, where poverty and underemployment are most acute. The *gatos* promise good pay for hard work. Workers who sign up are usually transported hundreds of kilometres away to remote places where they are expected

to work in ranches or logging camps. Economic activities identified in places where forced labour has been detected include cattle raising (80 per cent) and crop agriculture (17 per cent).

191. On reaching their destination, workers find themselves trapped in debt bondage. They are usually told that wage deductions will be made to repay transport costs, of which they may not have been previously informed. In other cases, workers are first brought to collection points, where they wait several days or even weeks before transfer to the workplace, and where additional debts are accumulated for the costs of lodging, food and drink, and other items. Debt bondage thrives in the most remote regions, where isolation, threats, violence, and sometimes homicide make it impossible for workers to leave. Isolation once again means that workers have no choice but to buy essentials, including food, from their employers, often at vastly inflated prices.

Remedial action in Latin America:

Examples from Brazil, Bolivia and Peru

192. When the roots of forced labour lie deep in a continent's social, economic and ethnic structures, multiple strategies are needed to eradicate the problem. Latin America has lower demographic pressure than Asia, and consequently less pressure on its land and natural resources. The continent also saw a package of modernizing land, tenancy, labour and social reforms between the 1950s and 1970s, which did much to eradicate the servile labour systems then widespread in rural areas. However, the opening up of new areas for economic and social development appears to be creating further patterns of forced labour abuse, which now require urgent attention.

193. Brazil has taken the lead in addressing the problems with high visibility, through the adoption in March 2003 and subsequent implementation of its National Action Plan for the Eradication of Slavery. Components of the multiple strategy include: massive awareness raising; coordination of government activities; promotion of a new law with stronger sanctions against offenders, including confiscation of their property; greatly intensified release of forced labour victims in remote areas through the interventions of mobile police units and other agents of criminal and labour law enforcement; and a steady increase in prosecutions. The challenge in Brazil is to complement its laudable law enforcement efforts against impunity by effective strategies for prevention and rehabilitation. A start has been made with legislation ensuring payment of the Government's share of unemployment insurance contributions to workers rescued from slave labour.⁸⁶ There is room for employers' and workers' organizations to work closely with local authorities and civil society groups in the source areas for forced

86. Act No. 10,608 of 20 Dec. 2002, amending Act No. 7,998 of 11 Jan. 1990, regulating the unemployment insurance programme.

labour victims, to devise rehabilitation programmes that provide for a truly sustainable livelihood.

194. Although action is less advanced in Bolivia and Peru, in 2004 important commitments were made by both Governments against forced labour. In September 2004 Bolivia's Minister of Labour, following a tripartite workshop on forced labour, formally announced the Government's intention to design and implement a strategy to eliminate forced labour with the assistance of the ILO. In Peru, in the course of tripartite meetings to validate the findings of the abovementioned research, the Government announced its readiness to develop a specific policy to eradicate forced labour.

Africa: Forced labour in a context of poverty and tradition

195. A review of recent trends in Africa needs to take account of some particularities of this continent. First, where extreme poverty is the norm, many workers receive little or no financial payment, but are remunerated mainly through substandard food and lodging, or other payment in kind; delayed payment and non-payment of wages are widespread; and wages rarely match any legally defined minimum. It can be difficult to determine when the generalized breach of labour contracts, together with poor terms and conditions of work, degenerates into actual forced labour.

196. Second, given the importance of kinship and "tradition" in African economic and social relations, these can be invoked to demand unpaid services from extended family members, lower-status community members or even descendants of former slaves. Freedom of choice is again lacking, but the nature of the associated coercion and penalty may be very intangible, to the extent that victims of abuse (and even the perpetrators) may not even recognize forced labour situations as such. They may be considered as "natural" and socially legitimate. Religious beliefs and threats of supernatural retaliation may also be brought to bear.

197. Third, forced labour in some African countries has occurred in a context of severe political violence. Collapse of governance and the rule of law give rise to conditions in which forced labour abuses can go unchecked.

198. Fourth, the incidence of child labour in Africa is the highest of all regions, linked to deep and widespread poverty. The normal dependence of young children on adults is dramatically increased when they move away from their home environment, across a "social" or national frontier, making them even more susceptible to coercion at work. In many parts of Africa, there is a strong tradition of children moving away from home. Current evidence suggests that children may represent a higher proportion of forced labourers in Africa than in other regions of the world.

199. People enter forced labour situations in Africa in a variety of ways. Birth and descent are of obvious importance in determining "slave" status in certain African countries. Victims of forced labour often come from distinct ethnic or religious minority groups. Forced labour can also be imposed by local authorities, including traditional chiefs.

200. The legacy of the slave trade can make the recognition of contemporary forced labour especially difficult for those in positions of power as well as for the public at large. Indeed, the very concept of forced labour, as well as slavery, conjures up images from the past in a continent where frequent use was made of forced labour until towards the end of the colonial era. Such factors may help explain the dearth of recent research on the topic, and the difficulty of undertaking it. Indeed, the results of recent studies commissioned by the ILO indicated that the national researchers, as well as their respondents, had great difficulty in understanding the concept, and in distinguishing forced labour situations from extremely exploitative, but nonetheless "freely chosen", work. While anthropologists have studied the issue of present-day vestiges of slavery in West Africa quite intensively, and cross-border trafficking of women and children has been high on policy agendas in recent years, other possible manifestations of forced labour have received scant attention. Thus, there remain significant gaps in the understanding of forced labour in Africa, and of how it can be most effectively tackled.

Forced labour related to slavery and slave status

201. The linkage between "traditional" slavery and possible present-day forced labour is clearly a sensitive issue in Africa. It is principally in the Sahelian countries of West Africa, including Benin, Burkina Faso, Cameroon, Chad, Guinea, Mali, Mauritania and Niger, that some concern has been expressed about alleged ongoing slavery-like practices or discrimination against descendants of slaves.

202. Indeed, the predicament of West Africans of slave descent, particularly those still suffering from discrimination and labour exploitation, has received considerable attention over the past decade. Recent reports tend to situate such cases in their social context, in contrast to earlier more sensationalist coverage of the issue. Anthropologists have recorded both improvements in the treatment of slave descendants and continuing exploitation. Local organizations have made significant efforts to assist these groups, as have some trade unions. Governments, for their part, have responded in different ways, depending on the particularities of the national situation.

203. Research has focused on pastoral groups, in which people deemed to be of slave status are attached to relatively isolated nomadic households.

They may work as household servants, tend livestock, or undertake agricultural tasks. In some situations, it appears that women are affected more than men, providing much the same services as did slaves in the past – collecting water, preparing food and tending livestock. But a whole range of services can be required of slave descendants, whether men, women or children – both in the household and in the fields.⁸⁷ Problems are reported to persist among certain ethnic and linguistic groups in which the marked differences in status between slaves and slave owners even in the pre-colonial period have persisted through to modern times.⁸⁸ In some cases, descent-based discrimination may not result directly in imposition of forced labour, but involve other practices that perpetuate the dependence of slave descendants on their master, thus severely constraining their alternatives. Examples include a prohibition on inheritance of property or on ownership of significant numbers of livestock, and on marrying women of non-slave descent.⁸⁹ Threats and other punishments are reportedly used to prevent slave descendants from fleeing. But diverse social and psychological factors can also come into play, such as fear of supernatural retaliation for not respecting the religious “duty” to work for the same employer or fear of the unknown world beyond the familiar confines of the traditional master’s household.

204. ILO research in Niger revealed that the Bella, descendants of the black slaves of the Tuaregs, could perceive their situation fatalistically as one of belonging to their masters, and being dependent on them for everything.⁹⁰ The attitude of the “masters” was also worth noting: some lamented the burden of continuing social obligations towards former slaves.

205. Yet such research findings remain disputed, with some governments and descendants of former slave-holding groups insisting that such practices no longer exist. They point out that individuals are now free to move away from the households to which they have traditionally been attached. Mass migration to towns, following periods of prolonged drought, has also broken down traditional dependency of “slaves” on their “masters”. Others maintain that such relationships sometimes persist in the new urban setting. Overall, insufficient disaggregated data have been collected about the economic or social status of slave descendants to establish whether or not significant patterns of abuse persist.

206. The reality seems likely to involve a spectrum of situations, from the highly exploitative to the relatively benign. Most investigation and action to date have concentrated on Mauritania and Niger, and the subject has received relatively little attention in other Sahelian countries. What remains clear is the need for continuing dialogue on this sensitive issue, towards a locally built consensus on what traditional practices constitute forced labour, how to identify such cases and how most effectively to combat the problems.

207. Some recent progress can be noted. In Niger, the active engagement of the Association of Traditional Chiefs of Niger (ACTN) in the fight against forced labour has resulted in an initial programme of awareness-raising workshops and radio broadcasts, with ILO support. In Mauritania, there has been a lengthy dialogue over these issues between the Government and the ILO supervisory bodies. The Government has reported action taken in the context of its economic and social strategy to combat poverty and its contribution to addressing the vestiges of slavery and preventing forced labour. Workers’ organizations in the meantime have continued to refer to the specific situation of persons in the household of former masters who are denied freedom of movement and freedom to work elsewhere. It appears that women, more than men, remain attached to nomadic households and provide much the same services as slaves in the past, collecting water, preparing food, and tending livestock near the household. A further concern, raised by workers’ organizations on several occasions with the Government, is that former slaves are losing their rights over the lands to which they formerly had access for their subsistence needs. They have therefore urged a programme of targeted assistance towards former slaves, including: large-scale development programmes in the villages of former slaves; programmes to develop basic infrastructure; scholarships for children; and a major awareness-raising campaign on outstanding problems and how to overcome them. Following a direct contacts mission to Mauritania in May 2004, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) proposed at its November–December 2004 session that the Government put in place, with the assistance of the ILO, an information and awareness-raising campaign to sensitize all sectors of the population, including those who are most susceptible to being victims of forced labour.

87. Research in Niger, gathered through focus-group discussions, indicated a wide range of duties, for which respondents reported an average of 16 working hours per day. The study distinguished between two different forms of contemporary servitude in Niger: first, an “active” system of economic discrimination based on a racial ideology in the Tuareg and Arab nomadic pastoral communities; and second, a more “passive” system of social and political discrimination practiced primarily, though not exclusively, in sedentary communities. See A.R. Sékou; S. Adji: *Étude sur le travail forcé en Afrique de l’Ouest: Le cas du Niger*, DECLARATION Working Paper (forthcoming).

88. For example, the Fula or Fulani in countries across West Africa; the Tuareg or Kel Tamasheq in Burkina Faso, Mali and Niger; the Toubou in Chad and Niger; and the Arabic-speaking community in Mauritania.

89. Recent evidence from different African countries reveals that descendants of slaves who are not nowadays subjected to any form of forced labour frequently feel discriminated against when they seek to marry the daughters of families deemed to be of “higher” social status. Dottridge, *op. cit.*

90. Sekou and Adji, *op. cit.*

Forced labour and discrimination in conflict and post-conflict situations

208. The case of Sudan is a clear illustration of how forced labour can be linked to discrimination based on ethnicity in the context of a civil conflict. The forced labour of men, women and children abducted in the course of the civil conflict in the south of the country that formally ended in May 2004 has continued to be the subject of considerable international concern. The Dinka communities of northern Bahr el-Ghazal have been the victims of raids, during which both livestock and people have been carried off to parts of south Darfur and western Kordofan.⁹¹ Upon arrival, the pastoralist Baggara communities put the abductees to work herding cattle and goats, or passed them on to others. Over time, some have settled in villages on a more permanent basis, and many girls are reported to have been married to men from the local community.

209. In 2002, an Eminent Persons Group visited Sudan to investigate the situation.⁹² It reported a wide range of abuse of abductees, including imposition of forced labour, severe restrictions on freedom of movement, in many instances physical and psychological abuse and, in some, forced marriage and sexual relations with women and girls. The Group's recommendations included the establishment of an effective policy framework for retrieval and reintegration of abducted persons; support for indigenous conflict resolution methods; more rigorous enforcement of existing laws; guaranteed safe passage of all those who wish to return to their home areas; and enhanced economic and social development programmes in the affected areas.⁹³

210. In May 2004 the Government of Sudan signed peace protocols with rebel groups, including a Protocol on power-sharing which contains provisions on the abolition of slavery. While there have been hopes that implementation of these agreements would solve outstanding problems, there were continuing reports of abductions and slavery in late 2004, particularly in the region south of Darfur where abduction of women and children has been attributed to militia groups. In the meantime the Government has observed that, whereas its Committee for the Eradication of Abduction of Women and Children

(CEAWC) considers that legal action is the best measure to eradicate such abductions, tribal groups have requested CEAWC not to resort to legal action unless their own amicable efforts have failed. The challenge is to foster such tribal conciliation meetings within a framework of peaceful coexistence, while at the same time ensuring that there is no impunity for abductors who exploit forced labour.

211. In other countries, there are widespread reports of forcible recruitment of under-18-year-olds into armed service by both government armies and insurgent groups.⁹⁴ While in some cases the recruitment of older children may be voluntary, in a large proportion of cases it is accompanied by coercion and intimidation. The number of children involved all over Africa is reported to have reached a peak several years ago of about 120,000.⁹⁵ The Lord's Resistance Army (LRA) in northern Uganda has repeatedly abducted children and forced them to perform a range of functions, from active combat to various support roles, including, for girls, acting as the "wives" of LRA commanders. Some estimates suggest that a total of about 20,000 children have been abducted.⁹⁶ Some young people have managed to escape from LRA camps. The United Nations Children's Fund (UNICEF) and others have assisted with repatriation and reintegration into their home communities, but a significant number remain unaccounted for. There seems to be little doubt that all those abducted are victims of forced labour, as well as other abuses.

212. Forced labour, including that of children, has also been reported in post-conflict situations, for example in Guinea, Liberia and Sierra Leone, particularly in association with diamond and gold mining.⁹⁷

Forced labour and tradition: Other aspects

213. Reports have also appeared of other alleged forced labour situations: people forced to work by traditional political authorities, including chiefs, as in Swaziland; services exacted from one social or ethnic group by another, such as the forest-dwelling pygmies of the Central African Republic who are obliged to supply their forest products to the non-forest communities that "control" them;⁹⁸ forced labour of women

91. Rift Valley Institute Slavery and Abduction Project: *The Sudan Abductee Database: Project summary*, July 2003. According to this report, over 11,000 abductees remain unaccounted for.

92. The Eminent Persons Group comprised experts from France, Italy, Norway, the United Kingdom and the United States. It had the support of both the Government and the Sudan People's Liberation Movement/Army (SPLM/A). See *Slavery, abduction and forced servitude in Sudan*, Report of the International Eminent Persons Group (United States Department of State, Bureau of African Affairs, 22 May 2002), p. 7. www.state.gov/p/af/rls/rpt/10445.htm.

93. *ibid.*, pp. 12-16.

94. See in particular, reports by the Coalition to Stop the Use of Child Soldiers, for example: *Child soldiers: 1379 Report* (London, 2002).

95. ILO: *Wounded childhood: The use of children in armed conflict in Central Africa* (Washington, DC, Apr. 2003).

96. Human Rights Watch estimated that some 5,000 children had been abducted between June 2002 and Mar. 2003, in comparison to only about 100 during 2001. Human Rights Watch: *Stolen children: Abduction and recruitment in northern Uganda* (New York), Vol. 15, No. 7(A), Mar. 2003.

97. Dottridge, *op. cit.*

98. Anti-Slavery International: *Enslaved peoples in the 1990s: Indigenous peoples, debt bondage and human rights* (Copenhagen, 1997), p. 23.

However, it can be argued that in such cases, the labour of the exploited people is not forced, rather the sale of the product of that labour.

in polygamous marriage,⁹⁹ people forced to work by religious authorities, including under the *trokosi* system in Ghana;¹⁰⁰ and the use of *talibé* children for begging in various West African countries.¹⁰¹

214. Several studies of the latter practice in West Africa have revealed that, like other traditions involving children in earning their upkeep, this one has sometimes been manipulated to become exploitative and abusive. For example, boys aged from ten to 15, as well as some young adult men, were reported in 2003 to have been brought from Burkina Faso to neighbouring Mali to pursue their religious studies and then to have been dispatched to work full time on rice farms in the Upper Niger valley: all their earnings were handed over to their teacher.¹⁰² Such cases suggest there is a need for some form of regulation to indicate what forms of money collecting or other income-generating activities by students are regarded as acceptable in each national context.

Gaps in the understanding of forced labour in Africa

215. The above review has covered those forced labour problems that – to a greater or lesser extent – are documented. Given the focus of the international community over the past decade on child labour, it is not surprising that the forced labour of children has received more attention than that of adults. There remain significant gaps in our understanding of forced

labour. All of this calls for more awareness raising and discussion, among governments and also involving the social partners, to reflect on the extent to which new problems may be arising in practice.

216. Such an exercise was held in Yaoundé in late 2004, when trade unionists from Burundi, Cameroon, the Central African Republic, Chad, Congo and the Democratic Republic of the Congo sought to identify the principal features of contemporary forced labour in this region.¹⁰³ Problem areas that surfaced included slavery and abductions; debt slavery; forced domestic labour; commercial sexual exploitation; forced overtime under threat of dismissal; unpaid compulsory labour for public servants; and trafficking in persons. A potential area of concern is possible forced labour abuses faced by internal adult migrants within Africa, whether rural–rural, rural–urban or cross-border, working in the informal rural and urban economies. The prevalence of debt bondage, and other abuses associated with the heightened vulnerability of women and men workers who have moved from their home environment, is not known. It is also important to examine in greater depth labour arrangements in commercial agriculture, to explore whether or not systems of advance payment or other payment systems linked to subcontracting of the migrant workforce in particular give rise to forced labour problems. More generally, there is a need for more detailed research on labour contractual arrangements prevailing in the informal economy, to confirm whether forced labour and debt bondage problems exist.¹⁰⁴

99. A recent study in Niger suggests that marriage is exploited as a way of acquiring control of women's agricultural labour, with marriages being conducted shortly before the rainy season, when agricultural labour is in most demand, specifically to acquire control over women's labour (involving, in one case cited, up to eight wives). In some cases, such marriages are brought to a prompt end once the period of peak labour demand is over. Sékou and Adji, *op. cit.*
100. Among the Ewe people of southeast Ghana, in order to atone for a sin, families have sent a woman or girl to live with and work for the custodians of shrines, to whom they have to provide sexual and domestic services, usually for life. For more than a decade the Ghanaian authorities, as well as a number of NGOs supported by the United Nations Development Fund for Women (UNIFEM) and others, have been engaged in efforts to eradicate this practice. In 1998 Ghana adopted the Criminal Code (Amendment) Act (No. 554), making it a crime to subject a person to "ritual or customary servitude". The new law did not put an end to the practice, however, although significant numbers of women have been released and given support in recovering and establishing themselves in alternative occupations. According to one estimate, more than 1,000 women and girls have been released so far.
101. In many countries boys attending religious schools are required to collect alms from the public in order to finance their education or educational establishment. This practice is reported among Christian communities in the highlands of Ethiopia, as well as in many Muslim communities, from Sudan to Senegal. The Muslim students are known as "*talibés*" in French-speaking West Africa.
102. C.O. Diallo: "Trafic d'enfants – Le marabout pris en flagrant délit", in *L'Essor*, 3 July 2003, quoted in M. Coulibaly; A. Diarra: *Etude sur le travail forcé au Mali* (Bamako, Oct. 2003), PAMODEC/BIT, pp. 49-50.
103. Séminaire sur les normes internationales du travail et les procédures constitutionnelles, 29 Nov. – 1 Dec. 2004.
104. Preliminary ILO research in Madagascar, for example, indicated that debt bondage and forced labour were prevalent amongst street traders in urban centres, who are obliged to hand over their identity cards to their suppliers. If they fail to meet repayment schedules for the supplies provided, they must either provide free labour (for example, as a night guard or domestic servant), or renegotiate the debt, taking further "advances" and thereby becoming effectively bonded by ever-increasing outstanding debt burdens. Rickshaw pullers were also found to be indebted to the owners from whom they lease the rickshaws, and also borrow money for agricultural inputs. Many experience problems with repayment. *Etude sur le travail forcé: cas de Madagascar* (unpublished document, Oct. 2004), study commissioned by the ILO.

5. Forced labour, migration and human trafficking

217. It has been seen that approximately 2.5 million men, women and children are victims of trafficking at any point in time, and that at the very least one-third of these are trafficked for economic purposes other than sexual exploitation. These findings clearly indicate that responses to trafficking need to move beyond the present focus on commercial sexual exploitation of women and girls towards a more holistic approach that includes the broader labour dimensions of human trafficking.

218. While there appears to be increasing consensus on this point among the global anti-trafficking community, there is still insufficient knowledge of these broader dimensions of the problem. Because they have been given so little priority by policy-makers and law-enforcement agents to date, resources have not been made available to investigate the labour dimensions, and as an inevitable consequence there has been very limited official data or analytical research.

219. In very general terms, the incentives for human trafficking between the poorer and the wealthier countries can be depicted as follows. On the supply side, often as a dual consequence of declining employment opportunities and rising consumer aspirations, there are growing incentives to migrate not only from rural to urban areas, but also from the less to the more affluent countries. In the wealthier countries, there appears to be a persistent demand for a labour force willing to accept low-paid and insecure jobs, often of a seasonal nature. Nationals of the wealthier countries are understandably reluctant to do the “3D” (difficult, dirty and dangerous) jobs. But as wealthier countries place more and more barriers in the way of lawful and regular migration, criminal elements sense the opportunity to reap large profits. Some intermediaries charge huge sums for moving aspiring migrants unlawfully across borders and others use a range of coercive and deceptive practices to extract further profits in the place of destination. In short, human trafficking represents an opportunistic response to the tensions between the economic necessity of migrating, and the politically motivated restrictions on doing so.

220. The above picture, however, oversimplifies the issues. The exact linkages between recruitment agents, transporters and employers in the destination countries can be tenuous. In practice, the distinction between human smuggling and trafficking can be blurred. Indeed, many of those who end up in situations of forced labour have migrated of their own

volition and become victims of forced labour on their way to or at their destination.

221. This chapter first discusses the linkages between forced labour, migration and human trafficking, drawing in large part on the findings of an ILO research programme in both destination and origin countries (box 2.3).¹⁰⁵ Although the initial emphasis has been on Europe, including the Russian Federation, and on central Asia, similar research is now being undertaken in developing countries such as Ghana, Indonesia, Nigeria and the Philippines.¹⁰⁶ Second, it gives attention to those at particular risk of trafficking for forced labour worldwide, including domestic workers, entertainers and women forced into commercial sexual exploitation. Third, it examines some structural factors behind this growing scourge of modern forced labour, including the economic sectors involved and the methods of recruitment. It also points to the huge profits of over US\$30 billion now being realized annually by present-day exploiters – usually unpunished – of these forced labour victims.

222. The remaining sections then turn to supply-side factors. After reviewing some root causes of trafficking, including patterns of gender and other discrimination, the chapter ends by stressing the vital need for stronger linkages between law enforcement and victim protection, and for better migration management as an essential aspect of the prevention of trafficking.

Forced labour outcomes of migration and trafficking in destination countries

223. The overall findings of the research described in box 2.3 can be summarized as follows. First, with the exception of coerced sex workers or members of certain ethnic enclaves in sweatshop production, forced labour situations are not usually the result of outright physical constraint. The research has documented more subtle patterns of coercion used to push down wages and make people work in poor or unsafe working conditions. Second, although it may be useful to subsume forced labour under the umbrella of anti-trafficking legislation and policies, the reality is more complicated. Migrants frequently enter destination countries of their own volition, perhaps with the assistance of friends and family members who are already there. They can still be highly vulnerable to forced labour exploitation, in particular when they have an irregular status and live under persistent

105. This project resulted from two separate requests. First, during its Presidency of the OSCE in 2003, the Netherlands provided financial support to the ILO to stimulate innovative research, both thematic and country-specific. Second, the Government of Germany asked the ILO to clarify the links between forced labour and human trafficking for the purpose of reforming its criminal law – something which can only be done on the basis of firm empiric analysis.

106. A number of studies to understand child trafficking for sexual and labour exploitation have been undertaken by IPEC, but they are not the focus of this Report. For more information on IPEC activities see ILO: *Unbearable to the human heart: Child trafficking and action to eliminate it* (Geneva, 2002).

Box 2.3.**Research design to study trafficking for forced labour**

In order to better understand the interplay of supply and demand in specific economic sectors, the profile of migrant workers most affected by forced labour exploitation and the impact of existing law and policy frameworks, the ILO carried out a multi-country research programme over a period of two years. The countries of transit and destination included France, Germany, Hungary, Japan, the Russian Federation, Turkey and the United Kingdom. Countries of origin included Albania, the Republic of Moldova, Romania, Tajikistan and Ukraine.

The studies in the countries of destination mainly used qualitative research methodologies. Each study was based on a desk review analysing existing accounts of trafficking for sexual and labour exploitation. This was followed by a discussion on the selection of economic sectors where further research should be focused, such as agriculture, construction, domestic and care work, sweatshop production, restaurants and catering, entertainment and others.

The country research teams were asked to document cases of forced labour exploitation in different economic sectors, in close collaboration with the social partners and community-based organizations of the migrant workers concerned. If the victim agreed, researchers would conduct a semi-structured interview (usually after the victim had already escaped the forced labour situation). Secondary sources were also used, such as court proceedings, police statistics and trade union and media reports. In each country, researchers conducted semi-structured interviews with key informants, for example social workers, police or labour inspectors.

The methodology applied in the study on four countries of origin (Albania, Romania, Republic of Moldova and Ukraine) consisted of three parts: (a) a standardized questionnaire for 160 returned migrants in each country; (b) semi-structured interviews with key informants; and (c) focus group discussions. The main sampling method used was snowballing (asking one informant to recommend others for interviewing), although returned migrants were also selected more randomly, for example by directly approaching persons in public spaces. The research teams were asked to select an equal number of women and men to the extent possible. In addition, information from a more or less equal number of trafficked/forced labour victims and "successful migrants" was sought in order to understand specific vulnerability factors.

The questionnaire investigated the following topics: demographic characteristics, the pre-migration situation of the migrant, how they obtained their job abroad (recruitment) and how the travel to the destination country was organized. In addition, the survey looked at conditions of employment/exploitation abroad, forms of coercion used by employers/exploiters, awareness of assistance and how the migrant managed to exit the forced labour situation.

Altogether, 300 cases of forced labour were documented and entered in a database. Key issues include victim profiles, recruitment mechanisms, the use of travel documents and work permits, forms of coercion experienced by victims and exit from forced labour.

This work has been an exploratory venture into a difficult territory. It has required innovative approaches to delve into a subject largely hidden from the public view and where the victims, once identified, may understandably be reluctant to share their experiences. In the absence of any real precedents, this research experience has thus also been a learning process for the ILO itself. There certainly remains much scope for improving methodologies in the future, together with social scientists, statisticians, government agencies, social partners and others.

Source: B. Andrees; M. van der Linden: "Designing trafficking research from a labour market perspective: The ILO experience", in *International migration*, Special Issue, Apr. 2005 (forthcoming).

threat of denunciation to the authorities and eventual deportation. Thus, forced labour can sometimes be an indirect outcome of the smuggling process, rather than a direct result of abusive or deceptive recruitment in the origin country. In fact, it is often difficult to distinguish in practice between workers who have entered forced labour as a result of trafficking and those who have been smuggled. Third, victims are very reluctant to denounce forced labour practices. As protection schemes, particularly for trafficked victims of labour exploitation, are still very weak in most countries, victims have little incentive to cooperate

with law enforcement agencies. Forced labour has also been documented in the realm of "ethnic business", especially in restaurants and catering, as well as small sweatshop production. These cases are even more difficult to detect owing to tightly knit community networks that protect the offenders.

224. Fourth, the research revealed that, apart from the sex industry, agriculture and construction are most prone to forced labour practices. The study on returned migrants in four eastern and south-eastern European countries found that, out of a sample of 300 forced labour victims, 23 per cent had been trafficked into

coerced sex work, 21 per cent into construction and 13 per cent into agriculture. The remaining victims (43 per cent) had experienced coercion in sectors including domestic service and care work, small manufacturing, restaurants and catering, and food processing, among others. This picture may change from region to region, but forced labour occurs predominantly in sectors with a high degree of informal labour relations and lengthy subcontracting chains.

225. Finally, the research highlighted that the lack of information on job offers abroad and the dependence of migrants on private intermediaries are major factors behind forced labour. “Successful migrants” rely more often on trustworthy social connections or legal channels, whereas the majority of forced labour victims have fallen prey to unscrupulous intermediaries who exploit the lack of awareness among prospective migrants. Restricted access to legal migration channels has itself contributed to the growth of the private recruitment business, which sometimes operates at the borderline of human trafficking.

Trafficking for forced labour exploitation: Reviewing the empirical evidence

226. The results of the global estimate for industrialized destination countries need to be interpreted with care. When an offence is not clearly defined by law, and when its incidence is primarily in the shadow economy, it tends to escape most statistics, even in the most advanced economies. So far only a few countries, such as the United States¹⁰⁷ and the Netherlands,¹⁰⁸ have published their own estimates of the number of persons trafficked into their countries.

227. Beyond the numbers, there is clearly a need to understand better the forms and manifestations of contemporary forced labour in major industrialized destination countries. Who are the primary victims? In which sectors of the economy are the problems mainly occurring, and why? What kind of coercion is used? To what extent can the problems be attributed to production or consumer trends, to labour market regulations, to methods of labour contracting, to im-

migration policies, or to other underlying root causes such as poverty and discrimination?

228. The German study described 42 cases of forced labour.¹⁰⁹ These included forced sex work, forced economic exploitation of domestic workers, seasonal work in agriculture, construction work, catering, the fun-fair trade and meat processing. Victims came from a wide range of African, Asian, central and east European and Latin American countries. The majority of cases were from central and eastern Europe, with a high proportion of Polish seasonal workers. Overall the German research findings pointed to a small number of severe cases of exploitation, but a progressively larger number of forms of coercion that do not involve outright physical violence or constraint. According to a Federal Criminal Police Office report for 2003, more than half of 827 registered victims of forced sex work experienced physical violence. Many of the victims were deceived and coerced already during the recruitment process.¹¹⁰ Violence was the exception in the other economic activities, but some degree of violence was nevertheless used in nine of the 42 cases described in the ILO report, four of which involved sexual exploitation. Nine of the documented cases involved the employers’ use or threat of a sanction against migrant workers, in the form of either arbitrary dismissal or reporting to the authorities, in order to exact underpaid labour.

229. An example of modern forced labour in Germany is that of an African asylum seeker, one of 19 irregular migrant workers who were recruited through a chain of subcontractors on a work site in 2003 and who never received the agreed wages. After persistently demanding his wages the African worker was beaten and seriously injured. He filed a claim with the police but later withdrew his testimony through fear of deportation. In this case public pressure on the main contractor led to the eventual payment of wages for the migrants concerned, but the same contractor later deprived a further group of irregular migrants of fair wages.¹¹¹

230. The Russian study,¹¹² the first of its kind in that country, was particularly concerned to assess

107. In its June 2004 *Trafficking in Persons Report*, the United States Department of State estimated the number of persons trafficked annually into the country at between 14,500 and 17,500.

108. The National Rapporteur on Trafficking in Human Beings puts at 1,602 the number of people in forced commercial sexual exploitation between 1995 and 2001. A.G. Korvinus et al.: *Trafficking in human beings: Supplementary figures*, Second report of the Dutch National Rapporteur (The Hague, Bureau NRM, 2003), p. 4.

109. N. Cyrus: *Human trafficking for sexual and labour exploitation in Germany*, Special Action Programme to Combat Forced Labour (unpublished document, 2004). The study was based on personal interviews (seven out of 42), secondary information from service providers, telephone conversations, court proceedings or the media.

110. Bundeskriminalamt (BKA): *Lagebild Menschenhandel 2003* (Federal Criminal Police Office: Situation report on trafficking in human beings 2003). The total number of victims for 2003 was 1,235, of whom 1,108 were foreign nationals.

111. Cyrus, op. cit. The contracting company was in the process of obtaining its legal registration, a loophole that has frequently been used to engage in unfair labour practices.

112. E. Tyuryukanova: *Forced labour in the Russian Federation today* (ILO Moscow and SAP-FL, unpublished document, 2004). The project selected three specific regions, for specific reasons. Central Russia, including Moscow and the Moscow region, was chosen as the largest receiving centre for migrants from the CIS countries and further afield. Stavropol *kray* and parts of Krasnodar *kray* in South European Russia were chosen as areas with notoriously strong policies against immigration. The third area of Omsk city and *oblast* in the Trans-Ural region were chosen in view of their extensive experience and high awareness of trafficking problems.

the degree of coercion affecting irregular migrant workers in different sectors. On the basis of nearly 450 interviews with migrant workers in different parts of the country and in seven main economic sectors,¹¹³ it drew a basic distinction between cases of forced labour where all the main elements of coercion were present and cases which were less coercive but did nonetheless restrain the workers from leaving or changing employment. In the latter, the identified elements of forced labour included coercion through unpaid overtime; additional functions; work without remuneration (for example for debt repayment); working under conditions incompatible with the notion of decent work; and living and working under restrictions of movement, limitations on freedom, and bans on medical treatment.

231. One key finding of the Russian study is that coercion is part and parcel of an average job experience for many migrants, rather than an outcome of a deliberate trafficking or deceptive recruitment strategy. Eventual victims tended to migrate on a voluntary basis. The “circle of deception” closed in at a later stage in the destination area.¹¹⁴ At first documents were withdrawn, and wages left unpaid. Victims were then subject to coercion, restriction of movement and physical abuse. Passports were held by employers in over one-fifth of all cases. In addition, 18 per cent of victims in Moscow, 15 per cent in the Stavropol region and 7 per cent in Omsk also stated that they were working under debt bondage conditions (the debt usually comprising a sum considerably exceeding one month’s wage). Some 16 per cent of interviewed migrants in Moscow (but smaller percentages elsewhere) affirmed that they were threatened with punishment if they tried to leave their present employers.

232. Corruption and racketeering also play a major role in perpetuating the vulnerable position of irregular migrant workers. In an ILO survey covering 101 Tajik male migrant workers in the Russian construction industry, all respondents claimed that they had been repeatedly under pressure from law enforcement agencies. A worker without a residence permit always faces the threat of deportation. This has led to the emergence of a criminal business that blackmails and harasses these workers in order to extort money. In addition, over 1,000 companies in Moscow offer

temporary permits that are usually forged, making these migrants easy prey for corrupt law enforcement officers. For violating residency regulations, police require migrants to hand over their passport, which can then only be retrieved for a fee. Failing this, the passport is handed over to the intermediary, who then forces the worker to pay for its return.¹¹⁵

233. The study in France focused in particular on the recruitment, transport, living and working conditions experienced by clandestine Chinese migrants.¹¹⁶ While there has been much sensational reporting about the “snakeheads” (people smugglers and traffickers) involved in Chinese-run organized crime, there have been few if any rigorous studies of the mechanics of Chinese trafficking and smuggling. In countries like France and Italy, among others, there has been a dramatic increase in irregular Chinese migration over the past two decades. In some cases, they may mix with the national labour force. But much Chinese immigration operates independently of local labour markets, representing ethnic enclaves which are difficult to penetrate. The migrants may make little effort to learn the national language, have no knowledge of national laws or the assistance available to them, and endure immensely long hours of work and arduous working conditions without redress.

234. While high indebtedness is the key factor behind the severe labour exploitation of most Chinese migrants, the methods of incurring and repaying these debts are themselves complex. Many migrants leave China with a friend or relative who makes the initial contact with the smuggling or trafficking agent, and advances the money. A number of such “snakeheads” can be involved in the smuggling and trafficking process, and may in some cases also make advances to the migrants. Sometimes the fee is increased during travel, and migrants may be held in detention en route until their debts have been paid. In the destination place 15-hour workdays are common, as are examples of physical restraint. Yet the link between the snakeheads, either in China or overseas, and employers in the Chinese ethnic enclaves is complex. Some migrants are physically detained after arrival, until at least part of the debt has been paid by families back home. In other cases insolvent migrants work for an employer, who gives the wages directly to the trafficker to cover travel expenses. It is still

113. The study focused on construction, small industries (such as bakeries and sewing workshops), trade and work at markets, personal services (including domestic service and nursing), services and entertainment work, sex work, and “illicit activities”. These were chosen as the sectors known to employ a high proportion of migrant workers. A total of 158 migrants were interviewed in Moscow, 144 in the Stavropol region and 140 in Omsk. Ten informants were then selected for in-depth interviews in each of the regions, chosen on the basis of their ability to illustrate a different element or form of labour exploitation or forced labour.

114. Of the respondents who had some prior knowledge about their future employment in the Russian Federation, 15 per cent stated that they were deceived, and 39 per cent that the promises made to them were “partly honoured”. Two-thirds said that working conditions were not what they had expected. But 63 per cent acknowledged that they had encountered no deception while organizing their travel; and 74 per cent that they had experienced no coercion, threats or pressure while organizing their job placement.

115. ILO: *The social status of workers from Tajikistan in the construction industry in Russia* (unpublished document, undated).

116. Gao Yun; V. Poisson: *Le trafic et l'exploitation des immigrants chinois en France* (ILO SAP-FL, unpublished document, 2004). The study was based on 59 semi-structured interviews and ten detailed case studies, including eight clandestine Chinese migrants (in some cases with their families) and one representative of Chinese ethnic business.

impossible to generalize as to the existence of formal linkages between the smugglers or traffickers and the enclave employers, rather than a situation in which Chinese employers simply take advantage of the vulnerability of their compatriots.

235. The labour exploitation of Chinese migrants is usually associated with clandestine recruitment methods. However, as ever greater numbers of Chinese citizens seek work overseas, there are concerns that those who emigrate through legal channels can also be subject to coercive practices. For example, in recent years this has become a matter of growing concern in Israel. The widespread importation of Chinese workers began in the late 1990s, at a time of labour shortages in the then booming construction industry. Both Chinese and Israeli recruitment agencies were involved, charging substantial fees of several thousand US dollars per contracted worker. The Chinese workers were then given work permits for a fixed period, tied to specific employers. Several complaints have been registered against these recruitment and employment practices, such as compulsory retention of part of wages, as well as identity documents.¹¹⁷

236. In such cases improved law enforcement, based on a clear legal framework, must always be part of the solution. But it is unrealistic to believe that an emphasis on law enforcement alone, targeting limited numbers of employers who extract profit from labour exploitation, can eradicate problems that can be quite deeply embedded in the social and economic fabric of these countries. A number of factors are tempting producers to cut costs to the maximum, in particular by placing the burden on the workforce.

Migrants and forced domestic work

237. Domestic work, though rarely recognized as productive, involves substantial numbers of mainly female migrant workers. The ILO has documented the often abusive and unprotected working conditions of domestic workers in a range of destination countries, in particular in Arab States, Asia and western Europe.¹¹⁸ A global analysis of domestic work by children, including its most exploitative forms, was published by the ILO in 2004.¹¹⁹ Domestic workers are especially vulnerable to forced labour because of the unprotected nature of their work and the highly personalized relationship between the worker and employer. Domestic

work takes place in the private household, which is typically excluded from labour market regulations. Although labour inspection is required in all employment situations, in practice the home is out of bounds for labour inspectors. A study of national laws in 65 countries conducted by the ILO revealed that only 19 of them have enacted specific laws or regulations dealing with domestic work.¹²⁰ These laws often afford lower protection to domestic workers than to other categories of workers. So far, there have been very few convictions of abusive employers or intermediaries involved in the trafficking of domestic workers.

238. Migrant domestic workers are in a particularly precarious position because of their insecure legal status in the host country. In some Middle Eastern countries, migrant domestic workers have received severe punishments, such as stoning and caning, and have been imprisoned and convicted of crimes following summary proceedings. Many, including migrant workers from Sri Lanka, Philippines and Indonesia, have died in unclear circumstances. Migrant domestic workers are restricted in their movements and isolated. In Hong Kong, China, and Singapore, several cases of severe ill-treatment of migrant domestic workers by employers have been reported and prosecuted since 2000, including at least one case of homicide.

239. Domestic service is also used as a cover to lure women into employment abroad while deceiving them about the real nature of their work. ILO research has documented numerous cases of women who left their country on the assumption that they would be employed as domestic workers and were then forced into sexual exploitation. In other cases, domestic workers are trafficked under the cover of servile marriages or au pair schemes that were set up originally for cultural exchange. In the case of a 21-year old au pair girl from Romania, who committed suicide in 2003 in Germany as a result of serious maltreatment, the employer was sentenced to prison. The young woman was hired through a Romanian-based Internet agency for recruiting au pairs.¹²¹

240. For many women, domestic work is often the only way to find employment abroad and to escape poverty in their home country. Women from the Republic of Moldova, for example, have migrated in large numbers to Turkey to work as domestic or care workers. While many thus contribute to the income of their families, some fall prey to unscrupulous

117. As in other countries, there is a corner where casual labourers wait to be hired, known as the "slave market", at the intersection of Jabotinsky and Aaronowitz streets in Tel Aviv.

118. S. Esim; M. Smith (eds.): *Gender and migration in Arab States: The case of domestic workers* (Beirut, ILO Regional Office for Arab States, June 2004); S. al-Najjar: *Women migrant domestic workers in Bahrain*, International Migration Papers No. 47 (Geneva, ILO, 2002); R. Jureidini: *Women migrant domestic workers in Lebanon*, International Migration Papers No. 48 (Geneva, ILO, 2002); ILO: *Domestic work in Asia: Vulnerability to forced labour and trafficking*, DECLARATION Worker Paper (forthcoming); N.J. Sayres: *An analysis of the situation of Filipino domestic workers* (Manila, ILO Subregional Office, unpublished document, June 2004). See also A. Blackett: *Making domestic work visible: The case for specific regulation* (Geneva, ILO, 1998).

119. ILO: *Helping hands or shackled lives: Understanding child domestic labour and responses to it* (Geneva, 2004).

120. J.-M. Ramirez-Machado: *Domestic work, conditions of work and employment: A legal perspective*, Conditions of Work and Employment Series No. 7 (Geneva, ILO, 2003).

121. Cyrus, op. cit.

recruiters and employers who deceive them, keep their identity documents and restrict their freedom of movement. Some have also reported sexual harassment or threats of physical violence.¹²² In 2003, the Turkish Government recognized the demand for foreign workers, including for the first time domestic workers, and introduced work permits that are not tied to a specific employer or “sponsor” as is the case in many Arab States.

241. Deception and abuse of domestic workers have also been identified in the recruitment process. The current system of recruitment between many South-East Asian and Middle Eastern countries has become more “formalized”, but there are still loopholes that make the recruitment tantamount to trafficking. Written contracts are often concluded between the recruitment agency and the employer. Some contracts impose penalties on domestic workers for leaving their employment prematurely, which may force the worker to remain in an abusive situation. Furthermore, recruitment agencies are often involved in the pre-migration training of domestic workers, where abuses are common.

242. Employers’ attitudes also exacerbate the vulnerable position of domestic workers. Employers prefer migrant domestic workers because they are less demanding and more flexible concerning working hours.

243. Unionization of domestic workers is fraught with obstacles. In some countries, legislation prevents domestic workers from enjoying the right to organize. Furthermore, trade unions face difficulties in reaching out to domestic workers.¹²³ First, this is because the employer–employee ratio is the reverse of the normal pattern, in that there is generally one employee for several employers. Second, working hours vary from one situation to another and many domestics do not have a day off in the week when meetings can be organized. Third, those most in need of support are often confined to the household and have to resort to clandestine means of communication with the outside world.

Trafficking and forced sexual exploitation

244. Many victims of forced sexual exploitation have been deceived into this abusive treatment, after originally contracting to undertake diverse economic activities. In some countries it is commonplace for

female migrants to apply for an “entertainment visa”. Such visa arrangements have come under strong criticism in recent years, as they often provide a legal cover for the trafficking of women into sexual exploitation. In Japan or Australia, for example, women have entered the country legally under such visa arrangements in the expectation of working in dance clubs, only to be forced later to provide sexual services as well. Other common recruitment methods for forced sexual exploitation are misleading media advertisements, individual traffickers posing as friends or relatives, or bridal agencies.

245. Gender, age and racial discrimination as well as the isolation of the work in hotels, private homes or brothels confined to certain districts are important factors that contribute to such sexual exploitation of women. On the demand side, a survey conducted with 185 clients of prostitutes in countries including Italy, Japan and Sweden found that demand for migrant and trafficked prostitutes follows a complex pattern. Certain groups of migrant prostitutes are viewed as working at the bottom end of the sex market, whereas local prostitutes are perceived as more expensive. When asked how they would react if faced with an unfree trafficked prostitute, only half of the respondents would report the case to the police. Others openly admitted to a preference for young and unfree persons because they are more docile.¹²⁴

246. The sex industry has become highly diversified and global in recent years. Technological developments such as the Internet, as well as the proliferation of tourism, escort agencies, and media outlets that advertise sexual services, have all contributed to the growing demand for commercial sex. Some regions, such as south-eastern Europe, developed into a hub for trafficking in women following war and steep economic decline. Many cases have involved a high degree of violence, including abduction, starvation and locking up of victims. Recent reports suggest, however, that traffickers have adjusted their strategy to increased law enforcement by using more subtle forms of coercion that are difficult to identify.¹²⁵

247. In Asia, the economic disparities in the Greater Mekong Subregion (GMS) fuel the trafficking of women and children from Myanmar, the Lao People’s Democratic Republic and Cambodia towards Thailand. Vietnamese women and children have been trafficked to Cambodia for sexual exploitation and to China for marriage and domestic work.¹²⁶

122. A. İçduygu; S. Köser Akçapar: *The labour dimensions of irregular migration and human trafficking in Turkey* (unpublished document, 2004).

123. ILO: *Your voice at work*, Global Report under the Follow-up to the Declaration on Fundamental Principles and Rights at Work, Report I(B), International Labour Conference, 88th Session, Geneva, 2000, pp. 31-32, para. 76.

124. B. Anderson; J. O’Connell Davidson: *Is trafficking in human beings demand driven? A multi-country pilot study*, IOM Migration Research Series No. 15 (Geneva, IOM, 2003).

125. Counter-Trafficking Regional Clearing Point: *First Annual Report on Victims of Trafficking in South-Eastern Europe* (Vienna, Stability Pact for South Eastern Europe Task Force on Trafficking in Human Beings (SPTF), International Organization for Migration (IOM), International Catholic Migration Commission (ICMC), 2003).

126. IPEC Mekong subregional project to combat trafficking in children and women, at www.ilo.org/public/english/region/asro/bangkok/child/trafficking/index.htm.

Major destinations for trafficking for forced prostitution from Indonesia and the Philippines include Australia, Hong Kong, China, Japan, the Republic of Korea and Taiwan, China.

248. Japan is a major destination country for trafficked victims of sexual exploitation from all over the world.¹²⁷ Most have come from South-East Asia, Latin America and recently also from eastern Europe. Though illegal, prostitution is provided in “restricted sex-related business”. Powerful organized crime groups control the sex industry, and are also at the centre of human trafficking. ILO research has shed light on the recruitment mechanisms and forms of coercion involved, in which victims have often responded to seemingly legitimate job offers only to be deceived about the real nature of their expected activities. Japan has recently embarked on a series of measures to eradicate such exploitation, including strict enforcement of the rules for entertainment visas, financial assistance for victims to return home, and intensified cooperation with origin countries.

Economic sectors, recruitment systems and profits involved

Economic sectors

249. Rigorous work on the demand aspects of human trafficking, including the economic sectors and the profits involved, is still badly lacking. Labour shortages in particular sectors or areas in the destination countries are one obvious factor behind the growth in irregular migration. Other “pull” factors include the existence of an undeclared informal economy where such migrants can easily find work. The instability of the jobs on offer can be a further explanation. The trend towards subcontracting, with complex and often unregulated chains, is also a relevant factor. Subcontracting can provide recourse to a flexible and cheap labour force without direct involvement in irregular employment practices.¹²⁸

250. Most trafficked forced labour affects persons working at the margins of the formal economy, with irregular employment or migration status. The sectors most frequently mentioned are agriculture or horticulture, construction, garments and textiles under sweatshop conditions, catering and restaurants, domestic work, entertainment and, of course, the sex industry. The more research is done, however, the more evident it is that coercive recruitment and employment practices can affect migrant workers in other quite mainstream economic sectors, including food processing, health care and contract cleaning, mainly in private but also in public sector employment, such as the provision of health-care services.

251. Much agricultural production has always depended on temporary labour during the harvest season. Substandard housing and excessive working hours have been longstanding problems. The bulk of the seasonal workforce is now comprised of migrants, some of them of irregular status, others coming under seasonal work schemes negotiated between governments and employers. Complex contracting and subcontracting chains are also a major feature, for example in the horticultural and food processing industries. Changing consumer tastes, leading to an increased demand from retailers for a year-round supply of much produce, have certainly had their impact on labour market trends. Groups of workers can be required at short notice to work intensively for very short periods. And with tremendous competition over costs, there is a real risk that unscrupulous companies at the bottom of the supply chain can use forced labour.

252. A feature of agricultural forced labour is that, at the upper end of these contracting chains, major production and retail companies can be affected. In the United States, some of the farm labour contractors accused of coercive practices have supplied labour for some of the largest citrus growers in the country. In the United Kingdom, major supermarkets have had their reputations tainted by alleged links with coercive gangmasters. This has led to concerns by employer groups to tackle the problem, either through regulation or through seasonal work schemes to meet the demand for temporary agricultural labour. The special schemes themselves have been criticized, either on the grounds that applicants have to pay for access to such schemes, or because workers can be unlawfully hired out to others by the company to which they have been supplied. But the schemes generally provide for some monitoring of working conditions, and thus build in a degree of protection against forced labour practices.

253. The construction industry also displays characteristics that contribute to a demand for cheap and flexible labour. The major companies have either become international conglomerates or reduced their labour force through extensive outsourcing. Thus, the industry now tends to be organized around small and medium-sized companies that subcontract through a chain of multiple units. Large projects can also be carried out by companies registered overseas, whose employment practices reflect conditions in the home country, while labour contractors play an increasing role in hiring out short-term workers to the companies. Construction cannot be relocated, and is notoriously subject to boom-and-bust trends. It also involves arduous and potentially dangerous work, in which the small operator can

127. The IOM estimates the number of foreign sex workers at 150,000. See: *Trafficking in Migrants: Quarterly Bulletin*, No. 15, June 1997.

128. For a review of these issues in Europe, see: G. Van Liemt: *Human trafficking in Europe: An economic perspective*, Special Action Programme to Combat Forced Labour, DECLARATION Working Paper No. 31 (Geneva, ILO, 2004).

derive significant financial advantages from cutting back on safety and health expenditure.

254. A feature of the construction industry in Europe and elsewhere is that forced labour practices can occur both through informal and clandestine recruitment systems and in legally approved contracts for international labour placement. The collapse of socialist economies in central and eastern Europe has significantly increased the pool of cheap and flexible labour. Migrant workers move from Ukraine to Portugal, from Poland to Germany, or from Romania to Israel, under both regular and irregular arrangements. In some cases internationally contracted workers are arguably in a forced labour situation, when they are tied to one employer without the right to leave, or when unlawful deductions are made from their wages. Trade unions and other advocates have sought rulings on these issues, to ensure that all construction workers are covered by labour regulations in the destination country.

255. The textile and garment industry, easily relocated, presents a different picture. In the industrialized countries it has been severely affected in recent times by global competition, and has responded with a fundamental shift in employment patterns. Since the mid-1990s Europe, for example, has persistently lost ground to Asia as a global exporter of textiles. Many enterprises have been relocated, and surviving enterprises have had to apply highly flexible production methods in a sector where the key to successful competition is low labour costs and swift adaptation to consumer demand. The sector appears to lend itself to the "ethnic niches" where migrants can set up clandestine enterprises with their own operating rules, evading national regulations, and having very tenuous links to the formal economy.

256. It is surely a matter of particularly grave concern when coercive labour practices against migrants can pervade major enterprises and even the public sector. There is considerable evidence that migrant workers are recruited in their home countries, on the understanding that they will have a fixed salary and particular job in the destination place, only to receive upon arrival a contract with entirely different conditions. Under such circumstances, health-care and other workers may accumulate debts steadily over the recruitment and transporting process, for video interviews, visas, air fare and other items. On arrival, they may be made to stay in preselected accommodation at above-average cost. When wages are lower than anticipated, they can find themselves in situations equal to, or at least approximating, debt bondage in the legal sense of the term. Disturbingly, it is sometimes found that the same private contracting agency acts as high-interest money lender, travel agent, or even accommodation agent in the country of destination. It is dubious practices of this kind, by agencies which may be registered

quite legally but nevertheless operate on the boundaries of crime and trafficking, which risk contributing to the further rise of a new form of forced labour in both industrialized and developing countries.

Recruitment systems in origin and destination countries

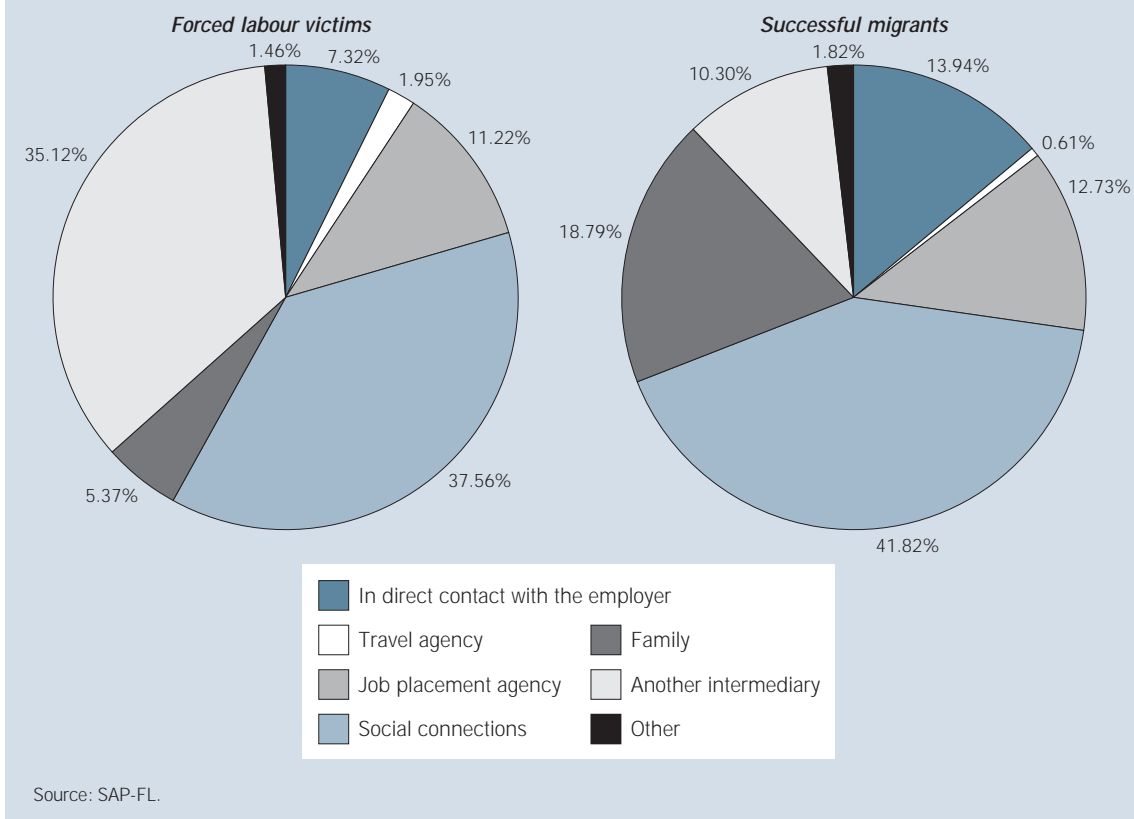
257. Intermediaries play an important role at both ends of the trafficking cycle. Victims of forced labour rely more often on dubious intermediaries to help them arrange travel and job placement. Figure 2.2 compares the means used by forced labour victims and successful migrants to find employment abroad. According to the study on returning migrants from eastern and south-eastern Europe, while both forced labour victims and successful migrants obtained jobs abroad through social connections (38 and 42 per cent, respectively), a larger proportion of forced labour victims found jobs via intermediaries (35 per cent) than did successful migrants (10 per cent). Trafficking networks for the sex industry operate slightly differently from the agencies recruiting migrants for labour exploitation. Members of the latter networks tend to be less sophisticated than the criminal organizations dominating the sex trade. Labour trafficking often takes place under a legal cover, for example through private recruitment agencies, contract work or even the abuse of seasonal work schemes.

258. While recruitment for employment abroad should be seen as a legitimate business, it may, in the worst cases, in the absence of legal and administrative controls, provide a cover for trafficking activities. Where monitoring is weak and business standards are lacking, agencies may opt for quick profits by charging migrant workers excessive fees, deceiving them about the real nature of their work, not informing them about their rights and providing them with forged documents. These agencies can work under several disguises the most common being travel, model, entertainment or matrimonial agencies.

259. An example of how some recruitment agencies can become part of the modus operandi of the trafficking crime is the gangmaster system in the United Kingdom, mentioned above. Gangmasters play an important role in providing casual labour in the British agriculture and horticulture industry. The term also refers to private employment agencies, although the distinctions are not always entirely clear. It is estimated that there are about 600 gangmasters operating in the United Kingdom. The Environment, Food and Rural Affairs Committee of the House of Commons has noted several incidents in which gangmasters have severely abused the rights of their contract workers.¹²⁹ Problems arise from inflated charges for travel, visas and accommodation; and also from the practice of contract substitution, referred to above.

129. House of Commons Environment, Food and Rural Affairs Committee: *Gangmasters*, op. cit.

Figure 2.2. Ways of finding employment abroad (sample of 644 returned migrants from Albania, Republic of Moldova, Romania and Ukraine)



260. The following example illustrates how debt bondage operates through recruitment agents. A gang imported east European workers for illegal factory work between 2002 and 2003. They were originally promised work permits, but were given false passports en route. They then attempted to escape the gang’s control, but were subjected to such serious threats that they were forced to continue. On arrival they were informed of their conditions. They would work seven days a week, to repay the cost of both their transport to the United Kingdom and their food and accommodation while in that country. Once the debts had been cleared, they would be required to work for at least one year, for either no pay or at best a few pounds of “pocket money” per week. Salaries were paid into a gang member’s bank account. The workers were watched carefully, moved from house to house, and kept in isolation. Any breach of conditions, including work absences as a result of sickness, was added to their debt or deducted from their pocket money. Control was maintained through beatings

and threats of assault on workers and their families back home.

261. Illegal agents in Ethiopia rely on deception when recruiting women migrants to the Middle East, making false promises as to what awaits them in destination countries. Surveys confirm that these migrants face abuses similar to those experienced by trafficked workers across the world, including forced labour exploitation.¹³⁰ Although the Ethiopian authorities have tried to clamp down on such agents, mainly women migrants continue to resort to illegal services. Such practices persist despite the Private Employment Agency Proclamation No. 104/1998, which makes it obligatory for recruitment agencies to obtain a licence and offers protection to migrant workers by requiring agencies to register all contracts of employment, give pre-departure orientation and monitor the situation of the worker in the country of employment.¹³¹

262. In Indonesia, prospective migrants are obliged to go through one of 400 agencies regulated by the Government. The agencies require

130. See E. Kebede: *Ethiopia: An assessment of the international labour migration situation – The case of female labour migrants*, GENPROM Working Paper No. 3, Series on Women and Migration (Geneva, ILO, 2002).

131. Available at www.ethiobar.net/Archive/English/1stterm/3rdyear/hopre/bills/1997_98/procl104e.htm.

Table 2.1. Estimated average annual profits generated by trafficked forced labourers

	Profits per forced labourer in commercial sexual exploitation (US\$)	Profits per forced labourer in other economic exploitation (US\$)	Total profits (million US\$)
Industrialized countries	67 200	30 154	15 513
Transition countries	23 500	2 353	3 422
Asia	10 000	412	9 704
Latin America	18 200	3 570	1 348
Sub-Saharan Africa	10 000	360	159
Middle East	45 000	2 340	1 508
World			31 654

Source: SAP-FL.

prospective migrants to live in training camps for between one and 14 months, where they can be forced to perform involuntary work or services under harsh conditions.¹³² A domestic worker held for four months in an East Java training camp along with 1,000 other women described the strict isolation under which they were held. Those who were sick and wished to return home had to deposit the sum of Rp.2 million as a guarantee that they would come back and those who cancelled the recruitment process were fined Rp.3.5 million (approximately US\$400). The longer they stayed in the camp, the more their debt towards the agency increased. The agency's hold on the worker continued even after job placement. This particular worker discovered that the agency had fraudulently withdrawn most of the wages deposited by her employer in her bank account, so that after nine months of labour in slavery-like conditions she remained empty-handed.¹³³

263. Policy approaches to the monitoring of private recruitment agencies and labour brokers vary considerably. Some governments, such as those of the Netherlands or Germany, have amended legislation to allow private recruiters a greater role in the interest of increased labour market flexibility. In countries where private recruitment agencies have long played a powerful role in facilitating migration, such as the Philippines, governments have developed strong regulations to punish abuses and protect aspiring migrant workers from excessive fees and misleading information. In transition countries, there has been a growth of private recruitment agencies, often doubling up as travel agencies. Regulations and standards

to monitor their work are still very weak, and government authorities, law enforcement officers and employers' representatives need training to improve business conduct in this area and thereby prevent the risk of trafficking.¹³⁴

Estimated profits of trafficking

264. What are the profits of such activities, and who stands to gain? Trafficking clearly generates a flow of profits, not only for the agents who provide transportation or cross-border movement of people, but also for the employers who exploit forced labourers in the place of destination.

265. The total illicit profits¹³⁵ produced in one year by trafficked forced labourers are estimated to be about US\$32 billion (table 2.1). Half of this profit is made in industrialized countries (US\$15.5 billion) and close to one-third in Asia (US\$9.7 billion). Globally, this represents an average of approximately US\$13,000 per year for each forced labourer, or US\$1,100 per month.

Root causes of human trafficking

The trafficking-poverty link

266. Migration theory generally holds that labour migrants do not belong to the poorest strata of the population, although they may come from very poor countries in terms of gross domestic product (GDP) per capita. Trafficking research, however, has revealed a slightly different picture. While any migration

132. ILO: *Report of the Committee of Experts on the Application of Conventions and Recommendations*, op. cit., p. 138.

133. ILO: *Domestic work in Asia*, op. cit.

134. See C. Ghinararu; M. van der Linden: *Trafficking of migrant workers from Romania: Issues of labour and sexual exploitation*, Special Action Programme to Combat Forced Labour, DECLARATION Working Paper No. 33 (Geneva, ILO, 2004).

135. Value-added usually represents the sum of profits and wages. In the case of forced labour, however, most value-added goes as profits into the pockets of traffickers and employers.

Box 2.4.**Methodology for estimating annual profits from trafficked forced labour**

The first column of table 2.1 estimates profits made from trafficked people in commercial sexual exploitation. The estimate follows the methodology described by the OECD to calculate profits from prostitution in general: estimate average turnover (i.e. number of clients multiplied by the price paid by each client) and subtract intermediate consumption expenditures. For this calculation a variety of secondary sources were used and the results compared with other available estimates. The second column shows profits made from trafficked victims in other forms of forced economic exploitation. Since there is no way to know the exact profit generated by each forced labourer, this uses as a proxy the data on average value-added per worker in agriculture from the World Bank's *World Development Indicators 2004*. This serves as an indicator of profits in low-tech labour-intensive sectors, where trafficked forced labourers typically work. The last column is simply the profits multiplied by the number of victims trafficked into forced labour for either commercial sexual exploitation or other economic exploitation.

An estimate as large as US\$32 billion may seem surprisingly high. Another frequently quoted figure in the trafficking literature is the US\$5 to 7 billion annual profits for gangster syndicates that traffic women for commercial sexual exploitation. It referred to the earnings made by transporting irregular migrants into western European countries, and not to the amount of profits generated over time by people forced to work as a result of trafficking. Hence, it is not surprising that the two figures do not quite match.

The US\$32 billion figure may well be a conservative estimate, for two reasons. First, the global estimate of the number of victims is a minimum one. Second, the estimate of actual profits per person is actually lower than that given by some other informed sources. For example, the estimated profits of US\$67,200 per trafficked victim in industrialized countries is lower than the findings of a recent Interpol report. The Finnish police seized accounts from a prostitution ring showing that profits totalled about 85,000 euros per woman. The Asian estimate is an annual profit of US\$10,000 per person. This is slightly lower than an earlier finding by Kevin Bales that a girl in a Thai brothel has 14 clients a day for 30 days, at a charge of US\$5 per client. This means a turnover of US\$2,100 per month or US\$25,200 per year. Even if as much as half covers expenses, profits are still US\$12,600 per year.

Source: Figure of US\$5 to 7 billion calculated in 1993 by Jonas Widgren of the International Centre for Migration Policy Development (ICMPD), Vienna, for presentation at an IOM seminar; World Bank: *World Development Indicators 2004* (Washington, DC, 2004), p. 126; J. Leskinen: *Finland Report 2002: Organized pandering and prostitution in Finland*, Interpol national situation reports (Mar. 2003); K. Bales: *Disposable people: New slavery in the global economy* (Berkeley, Los Angeles, London, University of California Press, 1999), p. 55; all cited in P. Belser: *Forced labour and human trafficking: Estimating the profits*, DECLARATION Working Paper (forthcoming).

project requires financial and social capital,¹³⁶ trafficked victims do not have access to such capital and thus fall prey to criminal groups or individuals that exploit their poverty. They are more vulnerable than other migrants as they have to borrow money from agents, including traffickers, prior to departure, are badly informed about legal employment opportunities abroad, may come from remote areas and lack social networks. Although existing data on trafficking as well as on internationally comparable poverty lines are contested, the majority of trafficked victims arguably come from the poorest countries and poorest strata of the national population. Poverty, however, can only be seen as one possible root cause in conjunction with other factors such as discrimination, corruption and weakly functioning labour markets.

267. In Europe, Albania, the Republic of Moldova, Romania and Ukraine have been identified as important source countries of trafficked victims. In

all four countries, a comparatively large share of the population lives below the international poverty line. According to the ILO study based on a sample of 644 returned migrants from eastern and south-eastern Europe, victims of forced labour more often (51 per cent) described their pre-migration situation as poor compared with the more successful migrants living in the same area (27 per cent) (see figure 2.3). Table 2.2 shows that countries with a large population living below the poverty line have a larger share in trafficked victims than others. This is confirmed by findings of the United Nations Office on Drugs and Crime (UNODC) on the global incidence of human trafficking. The UNODC database shows that people are trafficked mainly from less developed regions around the world, such as Africa, Asia and the Commonwealth of Independent States (CIS), whereas industrialized countries are the final destination for most trafficked victims.¹³⁷

136. Social capital can be defined as access to migration- and labour market-related information, social networks abroad (family, friends) and other support structures.

137. K. Kangaspunta: "Mapping the inhuman trade: Preliminary findings of the database on trafficking in human beings", in *Forum on Crime and Society* (New York, UNODC), Vol. 3, Nos. 1 and 2, Dec. 2003, pp. 90-91.

Table 2.2. The link between trafficking and poverty¹

Selected European countries of origin	Identified victims of trafficking (2000-June 2003)	Population living on less than US\$2 a day (%)
Albania	2 241	11.8
Republic of Moldova	1 131	63.7
Romania	778	20.5
Bulgaria	352	16.2
Ukraine	293	45.7
Croatia	3	< 2
Czech Republic	2	< 2
Poland	1	< 2
Hungary	1	7.3

¹ The data are only illustrative and represent a tentative indication of the link between trafficking and poverty.

Sources: Counter-Trafficking Regional Clearing Point, op. cit., p. 10; poverty figures from World Bank, op. cit., table 2.5.

Figure 2.3. Migrant's assessment of pre-migration situation compared to living standard in same region
(sample of 644 returned migrants from Albania, Republic of Moldova, Romania and Ukraine)



Source: SAP-FL.

268. In another sample of 151 likely and actual migrant workers from Tajikistan, most respondents and their families lived below the poverty line (measured in terms of monthly income per capita and the cost of a basic “basket of goods” – US\$64). In the majority of cases, the income was not even enough to cover the food component of the basket of goods (US\$24). In rural areas, 89 per cent of the households fell within this category, in urban settings 76 per cent.¹³⁸

269. In West Africa, the source areas for trafficking are typically those that have not benefited from development and from which seasonal migration is common, such as northern Ghana. Social workers report that pressure to migrate is particularly strong on girls who require money for marriage preparations and on child-bearing women who find that the parental home is too poor to receive them. They move to urban areas to work as head porters and often experience

138. *The social status of workers from Tajikistan in the construction industry in Russia*, op. cit.

labour and sexual exploitation. A review of 35 studies on trafficking in Nigeria indicates that victims are generally of low socio-economic status. Many come from large families, having dropped out of school because of financial difficulties. Although many have had some vocational training, they are unable to set up a small business owing to lack of working capital.¹³⁹ A UNICEF-supported study on child trafficking in 11 states of southern Nigeria also concludes that trafficking is rife where poverty is endemic.¹⁴⁰

270. In Asia, ILO research in the Greater Mekong Subregion also shows this close link between the pressure to migrate from rural areas and vulnerability to trafficking. While some victims – male and female – are actually sold to traffickers by relatives or “friends”, most human trafficking occurs during the course of voluntary but ill-prepared and uninformed migration. Often naive and under-educated, many children and young women are tempted to leave their rural villages in search of work. While some are simply searching for adventure in the big city and a new start in life, many are seeking to escape poverty.¹⁴¹

Discrimination as a root cause of trafficking

271. Discrimination based on gender or ethnic origin is also a major determinant of trafficking. ILO research has confirmed the generally held assumption that the majority of victims of human trafficking are women. The study on returning migrants in eastern and south-eastern Europe found that, while the large majority of successful migrants were men, women accounted for 58 per cent of forced labour victims (figure 2.4). Nonetheless, the proportion of men among forced labour victims was substantial. Both male and female victims of trafficking indicated that debt bondage prevented them from leaving the employment relationship. However, more women than men cite actual or threatened violence against their family as the main reason preventing them from leaving, whereas men are more concerned about denunciation to the authorities. Exiting from a forced labour situation thus seems to be more risky for women than for men.

272. Women are more vulnerable because, prior to migration, their housing and food are generally less adequate than those of men. In very poor households, young women and girls are often destined to improve the family lot by going abroad or by being

sold directly to the trafficker. In addition, men can find employment abroad more easily than women. Women, often lacking good information, rely more than men on intermediaries who may well turn out to be traffickers. Broader migration policies can also discriminate against them in that bilateral migration agreements, with the exception of those covering domestic workers from Asia, tend to cover predominantly male occupations.¹⁴²

273. Gender-specific cultural practices can also make women more vulnerable to trafficking. For example, certain traditions in central Asian republics, such as arranged marriages or forced marriages of young women and girls, have contributed to the rise in trafficking for sexual exploitation. Women can be part of trafficking networks too, posing as friends or “aunts” who lure other women into coerced sex work abroad. According to research on the trafficking of Nigerian women to Italy, on their arrival the women were told that they owed a debt of 50,000-60,000 euros to travel organizers. While most of the victims interviewed were aware in advance of the type of work that awaited them, they usually had no idea of the real conditions and the constraints that would be imposed on their freedom. Supernatural retaliation was invoked as a threat against anyone who failed to follow orders or to repay their alleged debt; to this end, the women and girls concerned were subjected to a religious ceremony before leaving Nigeria. Threats were used in both communities of origin and of destination.¹⁴³

274. More research is needed to better understand the linkages between discrimination based on ethnic or national origin and human trafficking. Forced labour practices suffered by migrant workers in destination countries show how ethnic or racial stereotypes can exacerbate the vulnerable position of mainly irregular migrant workers. Often, however, forced labour is part of the “ethnic business” structure. Patriarchal relationships within the community help ensure the worker’s compliance. In Hungary, Roma men from Romania have been found working for a Roma employer in Hungary under forced labour conditions. Roma NGOs have denounced these practices while pleading with authorities to address the root causes that lead Roma to becoming victims of smuggling or trafficking networks.¹⁴⁴

139. S. Oloko: *Desk review for the ILO on forced labour and trafficking in Nigeria* (unpublished document, 2004).

140. National Agency for the Prohibition of Traffic in Persons and other Related Matters (NAPTIP): *Situation assessment of child trafficking in eleven southern Nigerian states, 2004*.

141. IPEC Mekong subregional project to combat trafficking in children and women, at www.ilo.org/public/english/region/asro/bangkok/child/trafficking/projectoverview-theproblem.htm.

142. G. Moreno-Fontes Chammartin: “The feminization of international migration”, in *Migrant workers, Labour Education* (Geneva, ILO), 2002/4, No. 129, pp. 39-47.

143. F. Prina: *Trade and exploitation of minors and young Nigerian women for prostitution in Italy* (United Nations Interregional Crime and Justice Research Institute (UNICRI) (unpublished document, July 2003).

144. See OSCE: “Roma to combat human trafficking among their own ranks”, Press release, 19 Sep. 2002.

Figure 2.4. Male and female victims of forced labour (sample of 644 returned migrants from Albania, Republic of Moldova, Romania and Ukraine)



Source: SAP-FL.

Forced labour as a result of internal migration and trafficking

275. Forced labour can also be the result of internal migration. In some reported cases, victims, many of them children, were first trafficked internally before being sent abroad. Examples can be found in the transition economies of central Asia, where the root causes include poverty and poor living conditions in home villages, factory closures, and lack of income-generating possibilities. Whereas men leave for neighbouring countries, women prefer to migrate internally. In Uzbekistan, they work as “*mardikorlar*” (plural of *mardikor*, or day labourer). They are especially vulnerable to exploitation and abuse, including forced labour. They are unable to register in the cities owing to the continued existence of the system inherited from the Soviet era, which puts high barriers on internal migration. Unable to claim their rights, they are often cheated out of their wages and in some cases suffer violent abuse by the employer. There have been reported cases of women *mardikorlar* in Uzbekistan being abducted and forced to work without pay or sexually abused.¹⁴⁵

276. To cite another example, this time from Africa, seasonal migration is the norm in drought-prone northern Ghana. Young women and teenage girls who migrate freely to the markets of Kumasi and Accra to work as porters are often obliged to surrender their earnings and provide sexual services

to shopkeepers who offer them a place to sleep. Migrants who return, especially if they are pregnant, can face difficulties in reintegrating in their communities of origin.

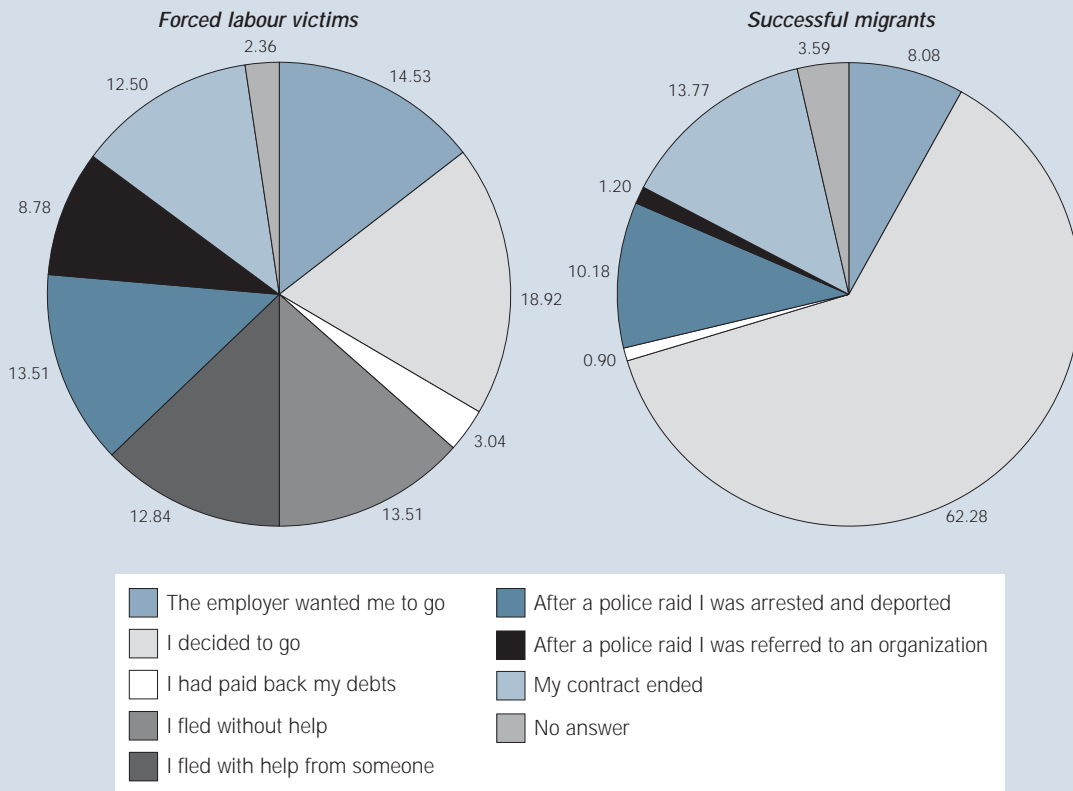
Linkages between law enforcement and victim protection

277. While important headway has been made with regard to new anti-trafficking and forced labour legislation, enforcement in most countries is still very weak. Despite some successful investigations and improved identification of victims, prosecution rates remain low. This is especially true for traffickers or employers involved in labour exploitation rather than commercial sexual exploitation. Weak enforcement can be attributed to the absence of victim protection mechanisms, as well as a lack of awareness of forced labour and trafficking among law enforcement authorities and the judiciary. Authorities may have conflicting interpretations of their own laws, notably between immigration law (which usually provides for the immediate deportation of irregular migrant workers) and laws for the protection of human and labour rights, including the basic rights of trafficked victims. Finally, corruption is a major impediment to more effective law enforcement in many countries.

278. The ILO study of returned migrants in eastern and south-eastern Europe (figure 2.5) found

145. A. Serdjitdinov: *Forced labour in central Asia: Legacy and current practice*, desk review prepared for the ILO (unpublished document).

Figure 2.5. Circumstances of exit from employment (sample of 644 returned migrants from Albania, Republic of Moldova, Romania and Ukraine)



Source: SAP-FL.

that, of the forced labour victims interviewed, 52 per cent exited employment by escaping, being released through a police raid or only after repaying their debts. The fact that some of them (19 per cent, compared to 62 per cent of successful migrants) ended the forced labour situation of their own volition because they “decided to go” points to some agency by the victim. Nonetheless, in doing so they risked deportation, loss of wages or reprisals against them or family members.

279. Victims are reluctant under present circumstances to denounce forced labour practices to police or labour inspectors, as they are afraid of deportation and the loss of any wages that might be due to them. Those irregular migrant workers most likely to become victims of forced labour are generally well aware that they have violated immigration laws (and in some countries, anti-prostitution laws as well) and are thus afraid to reveal themselves to the authorities. Law enforcement authorities in turn are insufficiently trained to recognize possible forced labour situations and undertake investigations, except by relying mainly on the testimony of potential victims. While many countries provide some protection to

identified victims of trafficking, this is usually offered on condition that the victim testify in court. Where anti-trafficking legislation is still confined to sexual exploitation, victims generally receive no protection at all against forced labour exploitation. To encourage victims to denounce forced labour practices, States could lower sanctions against migrants in breach of immigration regulations (already often done in practice); enlarge the scope of existing victim protection programmes; and foster cooperation between service providers, law enforcement agencies and the social partners.

280. National law and policy approaches vary with regard to the protection and reintegration of trafficked victims. Current protection mechanisms in most industrialized countries tend to cover only women and children trafficked for sexual exploitation. Some countries, such as the United States and Italy, have already amended their legislation to extend protection to trafficked victims of labour exploitation and forced labour. There is growing consensus that all trafficked victims should be granted a reflection period followed by a temporary residence permit, if willing to testify in court. Yet such measures do not recognize

the lack of alternatives a victim may face after deportation. The Italian legislation, for example,¹⁴⁶ goes beyond that by offering protection independently of judicial proceedings. The temporary residence permit includes access to health and education services, as well as to the regular labour market.

The need for prevention and better migration management

281. Despite considerable resources having been spent on anti-trafficking programmes in south-eastern Europe, a recent assessment of their impact found that very little has been done to prevent migrants from falling into the hands of traffickers.¹⁴⁷ Apart from awareness-raising campaigns, often limited to sex trafficking of women, there is a need for more comprehensive strategies that depict trafficking as an outcome of weakly managed migration processes. Many origin countries in South-East Asia have made headway in this direction, and other regions can benefit from their experience.

282. The Trafficking Protocol lists some preventive measures to be undertaken by States Parties, such as research, information, mass media campaigns, and social and economic initiatives (Article 9(2)). The need for prevention has also been recognized in some major regional policy documents. In Europe, for example, the OSCE Action Plan calls for economic and social policies aimed at addressing the root causes of trafficking in human beings, among others.¹⁴⁸ The Experts Group on Trafficking in Human Beings set up by the European Commission recommended more targeted awareness-raising campaigns, better training, and more effective administrative controls, including monitoring of private recruitment agencies that are part of the modus operandi of trafficking.¹⁴⁹

283. Placing the problems of human trafficking in a wider migration context can call attention to the measures needed for longer-term solutions.¹⁵⁰ In countries of origin this can include: establishment of a clear and coherent migration policy; improved functioning of migration administration and institutions; preparing bilateral labour agreements ensuring regular migration channels, especially for women migrants; a labour market information system on jobs at home and abroad; general use of model employment contracts; better employment and vocational training policies and opportunities for women; and, lastly, the

monitoring of private recruitment agencies. Similarly, destination countries may reconsider migration policies that are often based on repressive means rather than the demand aspects, which call for more orderly labour migration. There is a parallel need for training of law enforcement agencies and labour market institutions in the means to monitor unprotected labour markets more effectively, working closely with the social partners and migrant workers' organizations to prevent exploitation and abuse. Employers can play a greater role in the prevention of trafficking by respecting and disseminating decent standards on recruitment and business conduct.

284. In assessing the impact of immigration regimes on trafficking and forced labour, it can be useful to compare a relatively strict regime (such as that of the Schengen countries of the European Union) with a more laissez-faire approach (such as that of Turkey). Immigration rules affect the scope for legal entry, work and residence. In Turkey, for example, citizens of the CIS can enter as tourists, although there are restrictions on taking up employment. There is some evidence that, although abuses against migrant workers have been documented, trafficking and smuggling networks play a far less important role in Turkey than in the Schengen countries.

285. Less restrictive entry regulations, however, do not necessarily entail the right to work or residence. ILO research has revealed that many forced labour victims enter the country legally and simply overstay their visa. Forced labour is therefore also related to the irregular employment of migrant workers, as well as to ineffective monitoring of labour markets. Most ILO member States subject foreigners who work in an irregular situation to sanctions ranging from a fine or imprisonment to forced deportation, including a ban on entry for a certain number of years. Hence, the possibility of denunciation to the authorities is a real threat to irregular migrant workers. However, enforcement of these measures is weak, resulting in a high number of irregular migrant workers in all countries, especially the major industrialized countries.

286. To prevent exploitation of irregular migrant workers, and to respond to labour shortages, some countries, including Italy and Spain, have opted for regularization programmes. Turkey has recently adopted legislation seeking to regularize the status of foreign workers,¹⁵¹ while both the United States and

146. Legislative Decree No. 286/1998 of 25 July 1998 regulating immigration and the status of foreigners, s. 18; Act No. 228/2003 of 11 Aug. 2003 on measures against trafficking in persons (amending ss. 600-602 of the Penal Code).

147. B. Limanowska: *Trafficking in human beings in south-eastern Europe: 2004 update* (UNICEF, UNOHCHR, OSCE-ODIHR, forthcoming).

148. OSCE Permanent Council Decision No. 557: OSCE Action Plan to Combat Trafficking in Human Beings, PC:DEC/557, 24 July 2003, pp. 8-10.

149. European Commission: *Report of the Experts Group on Trafficking in Human Beings* (Brussels, 22 Dec. 2004), List of recommendations, paras. 62-78.

150. See ILO: *Towards a fair deal for migrant workers in the global economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004.

151. Act No. 4817 of 27 Feb. 2003 on work permits for foreigners.

the Russian Federation have been contemplating amnesties for irregular migrant workers. Although such measures do not, perhaps, constitute explicit aspects of preventive strategies against trafficking, they do have implications for likely and actual victims of forced labour. Regularization campaigns would nevertheless

need careful political planning in order to avoid unintended side effects. Recent OECD research has revealed, for example, that following some legalization campaigns, regularized migrants have either been replaced by new irregular migrants or slipped back into clandestinity in order to keep their jobs.¹⁵²

152. OECD: *Combating the illegal employment of foreign workers* (Paris, 2000).

6. Forced labour and the global economy: Policy issues

287. Research and action over the past four years have led to a clearer understanding of forced labour in its different forms, of gaps in the law and policy framework against it, of its causes, its impact on different social groups, and also the linkages between forced labour and such priority concerns as poverty reduction, promoting equality of rights, and addressing the social dimensions of globalization.

288. In the first Global Report on forced labour, human trafficking for forced labour was described as the “underside of globalization”.¹⁵³ The improved knowledge base has since shed further light on the linkages between forced labour and the various aspects of globalization, including increased global competition, migration and labour market deregulation. But which forms or manifestations of contemporary forced labour can be attributed to aspects of globalization? And how can a fairer globalization, with due regard for its social dimensions, help to eradicate these abuses?

289. The analysis in preceding chapters serves to illustrate certain points. The forced labour associated with trafficking represents one of the most blatant failures of labour markets, and even of global governance, to address the needs of arguably the most vulnerable and least protected human beings in the world today. Although trafficking itself is by no means a new problem, the mechanisms of such trafficking today do appear to pose major new challenges for the world community. Yet it would be unwise to draw too hard and fast a distinction between the older and the newer problems. Bonded labourers are at times moving into coercion in different industries, under different mechanisms of indebtedness, because some unprincipled employers sense the opportunity to exploit this source of cheap and vulnerable labour. Trafficked workers are also bonded by debt, in both industrialized and developing countries. And new forms of employment coercion in some transition economies of east Asia and elsewhere can also be explained in part by globalizing trends, when employers in the emerging private sector are desperate to capitalize on world market opportunities by exacting as much labour as possible from a cheap and often unprotected workforce.

290. It is now clearer that competitive pressures can have an adverse impact on conditions of employment and, at their extreme, can lead to forced labour. With global pressures on suppliers to reduce costs by every available means, retailers and intermediaries can take advantage of the intense competition between suppliers in order to squeeze profits out of them. Many suppliers are paid a product price which barely allows them to break even. If they wish to make a profit, they have to reduce labour costs yet further. Suppliers with

just a little lower than average cost efficiency are liable to bankruptcy, and a small reduction in labour costs can have a large effect on profit realization.

291. Suppliers can pass on the burden to labour contractors, demanding that they provide workers at a cost so low as to make the use of coercive methods more likely. There is indeed some evidence that this is happening, in that contractors are accepting fees per worker so low that it would be impossible to comply with the provisions of national labour law. In one case in the United Kingdom, a labour contractor supplied South African workers to a fruit packing company which in turn was a supplier of the leading retailers. The contractor was paid an hourly rate per worker less than that which, according to the Chairman of the Association of Labour Providers (ALP), would be necessary simply to cover the costs of any labour contractor who abides by the law.

292. In many countries, this pressure on costs has been accompanied by two other trends which have contributed to forced labour: the increased supply of migrant workers and the deregulation of labour markets, which can blur the boundaries between the formal and informal economies. Migrant workers can be more vulnerable to forced labour situations simply because they and their families have less to gain – and far more to lose – from denouncing these situations to the authorities. In addition, strong pressures to deregulate labour markets and to downsize labour inspection services may have allowed the proliferation of unregistered agencies which can operate beyond the boundaries of state control.

293. With respect to labour institutions, one needs to consider both those responsible for labour recruitment and placement, and those whose duty is to protect workers against abusive practices. In recent decades there have been strong pressures to end public monopolies on job placement, paving the way for private employment agencies, which are often seen as more efficient. But coercive practices have been identified, again in both developing and developed countries, where there has been inadequate control over these agencies. The agencies that have in some way been associated with coercive and exploitative practices range from one-person businesses and intermediaries in rural Latin America or Asia, to loosely regulated enterprises in central and eastern Europe which can double as travel and job placement agencies. Eradicating such practices represents a major challenge for employers’ organizations worldwide, as well as for trade unions. Self-regulation by employers’ groups is one approach towards solving the problem, by insisting on minimum standards and denying membership or credentials to any job placement agency

153. *Stopping forced labour*, op. cit., p. 47.

that fails to meet them. In the case of more serious abuse, however, severe penalties are urgently needed.

294. In developing countries, there is clearly a need for more detailed research on labour arrangements prevailing in the informal economy, to confirm whether or not forced labour and debt bondage problems exist on a significant scale and, if so, where. Research undertaken with the ILO in sub-Saharan Africa indicates that debt bondage and forced labour may be prevalent amongst street traders in urban centres, rickshaw pullers and others, who are sometimes obliged to hand over their identity cards to their suppliers. If they do not meet repayment schedules for the supplies provided, they are required either to provide free labour (for example, as a night guard or domestic servant), or to renegotiate the debt, accepting further “advances” and thereby becoming effectively bonded by ever-increasing outstanding debt burdens.¹⁵⁴

295. The orthodox economic view calls for a progressive dismantling of labour regulations in order to ensure smoother and more flexible functioning of labour markets. Ironically, it is precisely this deregulation that leads to one of the worst forms of labour market failure. In strictly economic terms forced labour is a labour market failure because it violates key conditions for labour markets to function efficiently, namely the freedom of workers to exercise choice and to receive sufficient remuneration for freely chosen employment. The right to freedom is essential for efficient labour markets in the same way that property rights are essential for efficient product markets. But for the purposes of the present Report, the term “labour market failure” can be used more broadly to encompass the combined failure of labour markets, institutions and regulations to provide for more efficient or more equitable outcomes.

296. Dual approaches will always be needed, combining the “carrot” and the “stick”, mixing law enforcement with prevention and tackling the structural roots of forced labour as well as the individual agents who exact it. Improved law enforcement, based on a clear legal framework, must always be part of the solution. But it is unrealistic to believe that an emphasis on law enforcement alone, targeting limited numbers of employers who extract profit from labour exploitation, can eradicate deeply embedded structural problems. To ignore the need for a clear regulatory framework on forced labour, on the rather spurious grounds that this could inhibit market-oriented economic growth and development, would be an unacceptably weak response to the persistent problem of modern forced labour.

297. When should the emphasis be on the prosecution of individual offenders, and according to what criteria? And when is there a need to address more systemic deficiencies or failures in a country’s labour

market institutions, related to the longstanding survival or more recent emergence of forced labour practices? These are difficult policy dilemmas, which have to be looked at in the light of the specific situation in each country, and on which there is as yet very limited experience. Where there are national action plans against forced labour, it is clear that the approach aims to be comprehensive.

298. The negotiators of multilateral or bilateral trade agreements can play an important role in promoting incentives towards a globalization free of forced labour. Consumers also have a pivotal role in pressing for higher labour standards around the world. With globalization, the time when forced labour in parts of the production chain could be hidden from the general public is rapidly vanishing, as information about working conditions in different parts of the globe is growing exponentially. Consumers in New York or Paris want to know where their clothes or sugar or tomatoes come from, and in what conditions they were produced, and producers increasingly understand that it is in their commercial interest to eradicate forced labour worldwide.

299. The growing number of trade agreements with reference to forced labour and other labour standards shows that trade negotiators have aimed at dealing with these issues. The North American Agreement on Labor Cooperation (NAALC) signed in 1993 was adopted as a supplementary accord to the North American Free Trade Agreement (NAFTA); subsequent bilateral trade agreements involving the United States have addressed forced labour and other standards in their main texts. The Trade Promotion Authority approved by the United States Congress in 2002 required the United States Government to ensure in all its trade negotiations that the signatory countries comply with their own labour laws as well as the core labour standards of the ILO.¹⁵⁵ The different Generalized System of Preferences (GSP) arrangements of both the EU and the United States provide tariff reductions on imports from developing countries on condition that they meet a number of requirements, including the prohibition of forced labour. The EU’s GSP now explicitly refers to ILO Conventions No. 29 and No. 105, as well as the other fundamental Conventions covered by the 1998 ILO Declaration on Fundamental Principles and Rights at Work.

300. Together with such bilateral trade agreements, a number of industrialized countries are offering financial and technical assistance for the improvement of labour laws and their application. The ILO itself has received substantial technical cooperation resources for its work in this area. It is imperative that countries that do demonstrate the courage and political will to face up to the new forced labour should

154. See for example: *Etude sur le travail forcé: cas de Madagascar*, op. cit.

155. Bipartisan Trade Promotion Authority Act of 2002, s. 2102.

not be penalized for doing so. Research and awareness raising on the issues are indeed likely to generate specific information on forced labour, which should not prejudice trade negotiations. Governments in importing countries would be well advised to enforce sanctions or fines only in cases of persistent or systematic policy failure, not on the basis of individual cases of forced labour. It would be highly unfortunate

if governments were pressed into denying or hiding forced labour for fear of trade or other sanctions, or of trade negotiations being derailed by disclosure of information on forced labour. Provisions in trade agreements should encourage the adoption of nationally owned strategies against forced labour, and should certainly avoid any risk of such information being suppressed lest it be used for protectionist purposes.





PART III

Global action to combat forced labour

1. ILO action against forced labour

ILO action under the Declaration follow-up

301. Following the discussion of the second Global Report, *Stopping forced labour*, in June 2001, an action plan setting out the ILO's proposed action to eliminate contemporary forced labour was approved by the Governing Body in November 2001.¹ The plan identified the various components of a comprehensive strategy to eradicate forced labour.

302. First, appropriate legislation is an indispensable tool, including principles concerning the release and protection of victims of forced labour, and effective sanctions against perpetrators. Second, raising awareness of forced labour is needed, in respect of both the population at large and of responsible authorities such as the police and the judiciary. Third, research and surveys are identified as a high priority, both on the nature and extent of the problem and on the impact of interventions to date. Fourth, sustainable support and rehabilitation measures are needed for released forced labourers, requiring a focus on the poverty which breeds forced labour. Fifth and last, the plan emphasized the importance of prevention, through vigorous application of national laws and regulations, awareness raising and advocacy and by tackling the underlying causes of the problem.

303. The impact of ILO technical cooperation efforts to address the elimination of child labour is well known and documented.² Building on the lessons of the International Programme on the Elimination of Child Labour (IPEC), the plan proposed the establish-

ment, under the auspices of the InFocus Programme on Promoting the Declaration, of a special action programme to combat forced labour. This programme should "spearhead the ILO's future activities and give them more comprehensiveness, visibility and cohesion". The ILO should also collaborate with United Nations agencies and other bodies active in the field, which would give weight to its own work. Such a programme would cover all population groups and all forms of forced labour, addressing the problems in developing and high-income countries alike. It would increase the visibility and importance of ILO forced labour activities; and it would stimulate and bring greater cohesion to the Office's activities.

304. The Special Action Programme to Combat Forced Labour (SAP-FL) became operational in early 2002, thanks to generous donor support for a small core staff and operational costs.³ The programme has been under way for some three years at the time of writing this report, thus providing the opportunity for a preliminary assessment of its activities and impact to date.

305. As foreseen in the action plan, SAP-FL has contributed to and sharpened the impact of different ILO activities on forced labour. These include in particular those of IPEC, with its focus on trafficking in boys and girls as one of the worst forms of child labour;⁴ the International Migration Programme (MIGRANT), focusing on the protection of migrant workers in general; the Gender Promotion

1. ILO: *Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work: Priorities and action plans for technical cooperation*, Governing Body doc. GB.282/TC/5, 282nd Session, Geneva, Nov. 2001.

2. *idem: A future without child labour*, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I(B), International Labour Conference, 90th Session, Geneva 2002.

3. Contributions to core programme costs of SAP-FL and to field-based projects on forced labour have been provided over the period 2001-04 by the Governments of the United Kingdom (Department for International Development and Department for Work and Pensions), the Netherlands, Ireland, United States (Department of Labor and Department of State) and Germany.

4. Action undertaken by IPEC for the elimination of forced labour of children and in particular child trafficking is, however, covered only briefly, as more in-depth coverage of these issues will be included in the next Global Report on the abolition of child labour, to be published in 2006.

Programme (GENPROM) of the Employment Sector (now integrated into the Employment Policies Unit), concerned with gender issues in migration and trafficking; the Social Finance Programme (EMP/SFP), testing microfinance as a tool for eradicating debt bondage; the Bureaux for Employers' and Workers' Activities (ACT/EMP and ACTRAV), addressing the roles of the ILO social partners in upholding labour standards and rights; and the International Labour Standards Department (NORMES), with its traditional responsibility for supervisory work on the forced labour and other relevant Conventions.⁵

306. This review covers ILO work against forced labour since 2001, focusing primarily on the activities of SAP-FL. It presents the major achievements over the period, and draws some preliminary lessons learned.

Overview of ILO action against forced labour since 2001

307. The issue of forced labour has gained international visibility and attention over the period. One reason has been the global movement against human trafficking, in which the ILO has played a prominent role. The shift in the trafficking discourse to increasingly address the labour dimensions of the problem has meant that ILO is now recognized as an important partner by most international and regional bodies concerned with trafficking.

308. On wider forced labour problems, the ILO now has a significant and growing portfolio of activities and projects in different parts of the world. Several promising initiatives are under way, in partnership with national governments and social partners, generating valuable models and lessons for others in the future.

309. The Office has been active in various international and regional forums. It presented its work during a special discussion on forced labour held at the 2004 session of the United Nations Working Group on Contemporary Forms of Slavery. In Europe, the ILO has addressed meetings of the Organization for Security and Co-operation in Europe (OSCE), the Stability Pact Task Force on Trafficking in Human Beings, the EU Experts Group on Trafficking in Human Beings and the annual Expert Meeting on Trafficking in Human Beings held by the European Police Office (Europol). The ILO has contributed to the drafting of a new European convention on action against trafficking in human beings under the Council of Europe. It is a partner in the Issyk-Kul Dialogue

of the International Migration Policy Conference for Central Asia, the Caucasus and Neighbouring States (which also covers human trafficking and smuggling), and has participated in the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime in South-East Asia.⁶ The ILO has started several national coordination groups on trafficking and has been instrumental in establishing a regional coordination forum attached to the South Asian Association for Regional Cooperation (SAARC) Secretariat. In Africa, the ILO is now entering into dialogue with the Economic Community of West African States (ECOWAS) on the implementation of the Initial Plan of Action against Trafficking in Persons.

310. The period has seen some interest in forced labour among the multilateral development banks, which are seeking ILO collaboration in this work. For example, the World Bank's Environment and Social Development Department of the South Asia region took steps in 2003 to define an operational strategy against bonded labour, and sought ILO inputs. The Asian Development Bank (ADB), building on its earlier work with the ILO on incorporating other selected labour standards in its lending strategies, has now begun to address the issue of forced labour. The European Bank for Reconstruction and Development (EBRD) consulted with the ILO in 2004 during its preparation of internal guidelines on incorporating safeguards on all core labour standards within its lending programmes; of particular concern was the prevalence of human trafficking in some of the EBRD's borrowing countries.

311. Internally, major efforts have been made to strengthen coordination, collaboration and information sharing within the ILO on forced labour-related questions. For example, the in-house Informal Working Group on Trafficking meets on a regular basis to coordinate anti-trafficking work. Some joint projects have been initiated, with particular efforts to engage employers' and workers' organizations. One example is a new project on combating human trafficking and forced labour outcomes in Tajikistan, Uzbekistan and the Russian Federation.

312. The ILO has provided assistance to many national efforts to confront forced labour. Anti-trafficking projects are the most numerous, now active in more than 50 countries worldwide.⁷ Other important current projects tackle abusive recruitment systems in Latin America and bonded labour in South Asia. These efforts are reviewed in greater detail below.

5. Forced labour is addressed in the following core Conventions: the Forced Labour Convention, 1930 (No. 29); the Abolition of Forced Labour Convention, 1957 (No. 105); and the Worst Forms of Child Labour Convention, 1999 (No. 182); the other ILO core Conventions are also relevant to the eradication of forced labour. In addition, the following Conventions have a bearing on forced labour issues: the Migration for Employment Convention (Revised), 1949 (No. 97); the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); and the Private Employment Agencies Convention, 1997 (No. 181).

6. See Part II, Ch. 2 (para. 78).

7. Child trafficking and commercial sexual exploitation of children have received particular attention since 1996. Some 16 specific anti-trafficking projects are now in operation under IPEC, many covering multiple countries.

Box 3.1.
The ILO and trafficking

Trafficking has both international and national dimensions. Women, children and also men can be trafficked within borders, as well as across national frontiers. Trafficking is also perhaps the most flagrant of the societal and labour market failures that arise in the context of contemporary globalization. As part of its efforts to address the social dimensions of globalization, the ILO focuses on the interlinkages between forced labour, child labour, irregular migration and trafficking. It deals most particularly with the labour dimensions of trafficking, an area which has received insufficient attention to date from many governments, the media and the general public, and in which the ILO has most to offer. It derives its mandate against trafficking from a wide range of relevant Conventions: most particularly those on forced and child labour, and the protection of migrant workers; but also a wealth of other instruments on equality of rights, labour inspection, employment services and employment policy, among many others. And whether the trafficking is for labour or sexual exploitation, the ILO's strength lies in involving labour actors and labour institutions in broad-based action against it.

Most importantly, the ILO has a role to play in all the range of interventions needed for an effective strategy against trafficking. Most national and international action plans against trafficking distinguish between the different activities – some in the realm of law enforcement, others relating to human rights and the protection of victims. These include awareness raising, data gathering, prevention, victim identification, victim protection, law enforcement, and return and rehabilitation of victims.

Many agencies of the United Nations system have a mandate covering one or other of these aspects. Clearly, the ILO's broad mandate and area of competence encompass all of them. Moreover, its networks of employers' and workers' organizations (many of them with their own regional and international structures) are in a good position to deal with the challenges of trafficking across the cycle between origin, transit and destination countries. Increasingly, policy declarations are calling for comprehensive and integrated action of this nature. The ILO is particularly well equipped to do this effectively.

313. The main components of an integrated approach to combating forced labour, currently being developed and implemented by SAP-FL and other ILO units, are:

- surveys, studies and applied research to understand the nature and extent of forced labour and the characteristics of vulnerable and victim populations;
- sharing knowledge, achieving consensus and advocacy to raise public awareness of forced labour and to build political commitment to eradicate it;
- offering advice on appropriate laws, legal processes and sanctions for forced labour, and on a supportive policy framework;
- strengthening the institutional capacity of governments, employers' and workers' organizations and other key stakeholders to combat forced labour;
- field-based projects of direct action – for prevention, identification, release and rehabilitation/victim support, as well as to develop, test and document tools and good practice for wider replication.

314. While these components are treated separately in the review below, in practice they are mutually interdependent. Research is necessary to inform awareness raising, build consensus around the problems and solutions and develop strong policy frameworks; similarly, institutional capacity strengthening forms

an integral part of field-based action programmes, and should go hand in hand with the refinement of law and policy. Hence, most projects involve several if not all of these components.

315. Two overarching concerns deserve emphasis at the outset: first, given that so much contemporary forced labour involves migrant workers, coordinated interventions are needed across their areas of origin, transit and final destination. Second, national leadership and ownership of all interventions to combat forced labour are essential. Freedom from forced labour will be achieved only if and when national stakeholders at all levels and in all concerned institutions are determined to bring an end to this gross violation of human rights.

Research, studies and surveys

316. Improved knowledge of forced labour in practice is an essential first step in tackling possible problems, forming an essential basis for awareness-raising activities and policy dialogue on forced labour. Many declarations and strategy documents have called for improved data gathering on forced labour, including trafficking.⁸ Being largely hidden in the informal or

8. For example, the United States National Academy of Sciences, in its report *Monitoring international labour standards: Techniques and sources of information* (Washington, DC, The National Academies Press, 2004) recommended that “systematic in-depth national studies ... be conducted on forced labour by the ILO, with support by the U.S. Government, as a priority, taking into account a variety of labor market factors that bear on the economic environment in which forced labor takes place” (p. 159).

Box 3.2.
Bonded labour research in Pakistan

The research process was guided by a Bonded Labour Research Forum, convened by the Ministry of Labour, Manpower and Overseas Pakistanis with the support of the ILO, comprising senior representatives of the Government, as well as the research and development communities in Pakistan. An ILO research co-ordinator provided continuous support. While the national researchers were given discretion to develop their own methodology for the sector being examined, there were certain common elements. These included:

- analysis of secondary information, including national surveys and censuses, NGO and international organization reports, labour force surveys, and newspaper and magazine articles;
- use of qualitative field data-gathering tools, including informal or semi-structured interviews, focus group discussions, case studies, key informant interviews, community and workplace profiles and direct observation;
- interviews with employers and landowners, intermediaries and workers and their family members (men, women, boys and girls);
- meetings with government officials at the federal, provincial and district levels, trade union leaders, NGOs and other key informants;
- general avoidance of direct questioning on issues of bondage and coercion, because field visits were too short to earn the trust of informants and so as to minimize the risk of their facing any repercussions for speaking about these issues with outsiders.

A sample survey in agriculture and brick kilns by the Federal Bureau of Statistics provided quantitative data that complement the largely qualitative findings of the rapid assessments. Together, the studies probably provide the most complete picture of bonded labour and other informal labour arrangements ever produced in South Asia, helping to clarify the situation where there has sometimes been considerable exaggeration in the past. A national seminar in January 2004, hosted by the Ministry of Labour, provided the opportunity to present and discuss the findings with a wide audience: in addition to ILO constituents, participants included academic researchers, human rights groups, NGOs and donor agencies. The whole process has helped generate momentum and provide guidance for the design of interventions. It is to be hoped that other countries with a significant incidence of bonded labour will follow Pakistan's example. Well-planned and rigorous research, with appropriate guidance from official bodies, need not be seen as controversial or as staining the image of a country, even if forced labour cases are documented.

Source: Bonded Labour Research Forum, in collaboration with the Ministry of Labour, Manpower and Overseas Pakistanis, Government of Pakistan and International Labour Organization: *Rapid assessment studies of bonded labour in different sectors in Pakistan* (2004). The studies were also published as DECLARATION Working Papers Nos. 20 to 26 (Geneva, ILO, 2004).

criminal economies, forced labour does not lend itself to investigation through conventional, formal sample survey methods, such as labour force or household surveys. Informal, largely qualitative studies are needed to probe into the means by which victims enter forced labour, the working conditions to which they are subjected and the factors that hold them there, in different economic sectors. Equally, there is a need to analyse the labour market and other factors that breed forced labour in the first place.

317. Understanding contemporary forced labour clearly requires a major effort in terms of time, resources, a sense of balance and rigour, and also in many cases real courage. Government authorities must be willing to accept that there may be a problem, and to invest in research. When migrant workers are involved, cooperation across national borders may

be required. Former victims will obviously be more willing to talk about their experiences when they are beyond the reach of their oppressors, enjoying protection by the authorities in their destination country or area, or back in their home community.

318. Research carried out on bonded labour in Pakistan provides an exemplary model of what can be achieved in a relatively short time span (box 3.2).

319. Research in neighbouring countries has tended to be more narrowly focused. For example, the *kamaiya* system of bonded labour in Nepal has been extensively researched in the past, leading, as we have seen, to radical action by the Government to abolish the system. However, new research with ILO support has looked into possible bonded labour problems associated with longstanding farm labour systems.⁹ Such research is important in opening up the

9. S. Sharma; R. Sharma: *Findings on debt bondage: Long-term farm labour systems in Kavre Palanchok and Sarlahi Districts, Nepal*, South Asian Programme against Debt Bondage, Social Finance Programme (Geneva, ILO, 2002).

bonded labour question in Nepal beyond the *kamaiya* system. In India, by contrast, little academic research on bonded labour has been conducted in recent years. Some specific research has been commissioned by the ILO project on the prevention and elimination of bonded labour in South Asia (PEBLISA), including on the gender dimensions of bonded labour and on the perspectives of agricultural employers, both in Andhra Pradesh.¹⁰ Project research has also produced a “Vulnerability to Debt Bondage Index”, intended as a tool for targeting interventions to the groups most at risk of falling into bonded labour.

320. Pioneering efforts elsewhere in Asia have broken the ice on a previously taboo subject. Experience in Mongolia and Viet Nam, for example, demonstrates the complementarity of processes leading to ratification of ILO Conventions and promotional assistance for understanding and solving problems in practice.

321. The Government of Mongolia announced its intention to ratify both forced labour Conventions, and requested ILO assistance in 2001. Initial consultations suggested that forms of forced labour that had prevailed in the central command economy, despite being outlawed, might not have disappeared entirely, and that market forces might have given rise to some new forms. It was agreed to conduct a study exploring issues including forced overtime in manufacturing, and prisoners being made available to private companies in the textile and garment industries. Tripartite workshops were held to agree on terms of reference and to discuss and validate the findings. Various follow-up activities are now under consideration.

322. A similar process is under way in Viet Nam, paving the way for ratification. A high-level inter-ministerial task force has been set up to oversee a comprehensive study of forced labour.¹¹ A series of workshops and meetings since 2002 resulted in agreement on parameters for the study. Field studies were completed, and desk reviews will produce comparative analyses of relevant legislation in the nine areas of possible forced labour under consideration. The process so far has succeeded in mobilizing a wide range of government departments under the leadership of the Ministry of Labour, Invalids and Social Affairs (MOLISA), creating widespread acceptance

of the relevance to Viet Nam of the elimination of forced labour and building consensus on what forced labour means in the Vietnamese context. This technical understanding must now be developed further, passed on to the political leadership and translated into changes in law and practice.

323. Recent ILO research on trafficking has aimed to shed light on trafficking for labour exploitation, in addition to sexual exploitation, examining both supply and demand factors. In Asia, the findings of IPEC rapid assessments of child trafficking in a number of origin countries¹² have fed into policy advice and project design. In the Greater Mekong Subregion, for example, research has shown that most trafficked victims initially leave their homes voluntarily in search of better economic opportunities, but end up in highly exploitative situations of forced labour and the worst forms of child labour. IPEC’s Mekong Subregional Project to Combat Trafficking in Children and Women¹³ is therefore addressing trafficking within the larger labour migration framework, developing bilateral and multilateral memoranda of understanding on trafficking. An IPEC regional study on the demand for trafficking in Asia, covering Bangladesh, India, Nepal, Pakistan and Sri Lanka, is currently under way.

324. Studies can focus on particular target groups. For example, in the Philippines and Indonesia, a new SAP-FL project on mobilizing action for the protection of domestic workers from forced labour and trafficking has undertaken situation analyses on migrant domestic work.¹⁴ The study in the Philippines, a country which has adopted significant measures for its migrant workers, nevertheless uncovered significant gaps in their protection. In Indonesia, the study revealed various abuses, including situations of forced labour suffered by aspiring migrants in pre-departure training camps, an aspect that has been raised by the ILO supervisory bodies.¹⁵

325. SAP-FL has given particular priority to improving knowledge of the demand for forced labour, especially as it relates to trafficking into industrialized countries. Conceptual research has shed light on the economic underpinnings of trafficking linked to changing industrial demand patterns.¹⁶ In western European and other industrialized countries, field

10. S. Subrahmanyam et al.: *Labour and financial markets from employers’ perspective: The case of Ranga Reddy District in Andhra Pradesh* (Hyderabad, India, Centre for Economic and Social Studies, unpublished document, Dec. 2003); B. Chakravorty: *Study on bonded labour with a gender lens in Rangareddy District, Andhra Pradesh* (unpublished document, Feb. 2004).

11. The task force includes representatives of MOLISA, the Prime Minister’s Office, the Ministries of Home Affairs and Public Security, the Office of the National Assembly and the Supreme People’s Court.

12. Bangladesh, China (Yunnan Province), Lao People’s Democratic Republic, Nepal and Thailand.

13. Covering Cambodia, China (Yunnan Province), Lao People’s Democratic Republic, Thailand and Viet Nam.

14. The project involves the Philippines and Indonesia as source countries, but also China (Hong Kong Special Administrative Region), Malaysia and Singapore as destination countries. IPEC also operates a project on the internal labour migration of girls and women between five provinces of China (Anhui, Guangdong, Henan, Hunan and Jiangsu Provinces).

15. ILO: *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part IA), International Labour Conference, 92nd Session, Geneva, 2004, pp. 137-138.

16. G. Van Liemt: *Human trafficking in Europe: An economic perspective*, Special Action Programme to Combat Forced Labour, DECLARATION Working Paper No. 31 (Geneva, ILO, 2004).

research has looked at the interplay of supply and demand factors in specific sectors, the profile of the migrant victims of forced labour, and the effectiveness of law and policy frameworks.¹⁷ A forced labour and trafficking database has been derived from survey interviews. The research is informing an emerging policy debate over migrant labour exploitation, whether under forced labour or trafficking laws, as well as the development of various manuals for the use of ILO constituents and others.

326. In Africa, preliminary research on forced labour encountered some difficulties. Certain countries were reluctant to engage on this sensitive issue, suggesting that a thematic or subregional approach may be advisable in future. Others, however, including Burkina Faso, Guinea, Madagascar, Mali and Niger, have welcomed ILO assistance for studies, collaborating in their implementation, tripartite validation workshops and some follow-up activities. IPEC has undertaken rapid assessments of child trafficking in nine countries of west and central Africa. The Governments of Ghana and Nigeria are now supporting additional studies, in the context of a new SAP-FL subregional project, to shed light on patterns of trafficking in adults to complement the better-known situation of children. Baseline studies in selected areas in both countries will provide the basis for the design of community-based programmes for prevention of trafficking and reintegration of victims. In Ghana, government social workers have been trained in basic fact-finding and identification of trafficking cases, thus ensuring that this work will continue after the end of the project.

327. In Latin America, studies in Bolivia, Brazil, Paraguay and Peru have served to engage government and the social partners in discussing the problems, and to identify appropriate intervention strategies. The experience in Bolivia is illustrative. Together with the Government, a decision was taken to focus research on particular areas and issues: debt bondage in the Bolivian northern Amazon; labour recruitment mechanisms in the lowland Santa Cruz department; and the slavery-like conditions affecting Guaraní indigenous people in the Chaco region. Results of the research were presented to the authorities and social partners at a tripartite meeting in La Paz in August 2004. The Minister of Labour subsequently requested the ILO to provide technical assistance for the design and implementation of a national strategy to eradicate forced labour. This strategy will be implemented by a National Commission on Forced Labour created by an inter-ministerial convention in December 2004. Preliminary activities have included workshops with regional directors in charge of labour inspection and with employers from sectors where forced labour was found.

328. The above examples illustrate the depth and diversity of recent research into forced labour, and how it can provide a firm foundation for follow-up interventions. Using creative approaches and techniques, a thorough understanding of forced labour problems can be acquired.

Awareness raising and advocacy

329. Using the knowledge generated through studies is essential to raise awareness of forced labour concerns among government agencies, the social partners, human rights and development agencies, civil society and public opinion generally. Approaches have differed according to country or region, depending on whether the main objective was to prepare the ground for ratification of the forced labour Conventions, or rather to identify problems in their application. Moreover, efforts to advocate policy change among senior government officials will be different from those aimed at alerting potential migrant workers to the dangers of abusive recruitment practices.

330. In Asia, where the level of ratification of the forced labour Conventions is lower than elsewhere, the initial focus of awareness raising has been on these ILO instruments. Following a workshop in China in 2003 to familiarize government officials and employers' and workers' representatives with ILO forced labour concepts and instruments, a study tour by high-level officials from relevant Chinese ministries and institutions was undertaken to several European countries, highlighting the forced labour issues arising in the context of punishing minor offences. An inter-ministerial workshop in 2004 identified follow-up activities, designed to lead to the ratification and implementation by China of the forced labour Conventions.

331. A workshop in Hong Kong SAR, China, in February 2003 focused on the situation of migrant domestic workers within and outside the region. This activity prepared the ground for the new SAP-FL project on mobilizing action for the protection of domestic workers from forced labour and trafficking in Indonesia, the Philippines, Malaysia and Hong Kong SAR, China.

332. In Pakistan, the ILO supported an awareness-raising and consensus-building event in December 2003 organized by the brick-kiln owners' association; and a series of awareness-raising events for workers is being implemented by the All Pakistan Federation of Trade Unions (APFTU). A national seminar to launch the findings of the rapid assessments has received significant national press coverage. Since then, various follow-up activities have continued to receive significant media attention.

333. In India, the state government of Andhra Pradesh organized, with ILO support, a Convention

17. Destination country studies have been conducted in France (focusing on the situation of migrant Chinese workers), Germany, Japan, the Russian Federation, Turkey and the United Kingdom.

on Bonded Labour in November 2003. Attended by stakeholders from government, the social partners and broader civil society, the event yielded important policy recommendations and a commitment to develop an action plan for the elimination of bonded labour.

334. At community level, in both South Asia and Africa, innovative techniques including street theatre are used to spread awareness about bonded labour, trafficking, indebtedness and related issues. Such approaches are particularly appropriate in remote areas with largely illiterate populations. In Nepal, a wide range of media, including articles in the press, radio programmes in the Nepali, Tharu and Avadhi languages, as well as a video documentary, are being used to call for the abolition of bonded labour and the worst forms of child labour. A workshop was held for journalists from the electronic and print media. Not all experiences have been entirely positive, however. For example, a poster-based campaign by the Sindh Labour Department in Pakistan met with some local resistance. Printed in Urdu and Sindhi, 100,000 posters were displayed prominently in courts, press clubs, public offices and marketplaces in five districts of the province. However, many of them were torn down by the public, allegedly under the instructions of local landowners. Some elected government officials, also with vested interests, proved unwilling to cooperate. This seems to indicate that such activities need to be embedded in broader efforts to inform and raise awareness, so as to reach and convince all elements in the community.

335. In Latin America, although the ratification rate of the relevant Conventions is high, generally only limited attention has been paid to forced labour, with the notable exception of Brazil. A series of initial workshops in Bolivia, Ecuador, Guatemala and Peru (countries with a large indigenous population) in 2002 served to identify a number of hitherto unexposed forced labour problems.¹⁸ These included debt bondage and appalling working conditions of indigenous migrants; coercive conditions in privatized mines; abuse of compulsory military service; and, in one case, the implications of military ownership of large enterprises for the application of labour law.

336. Brazil, by contrast, has undertaken a high-profile advocacy campaign against slave labour, launched in Congress in October 2003 (see box 3.3). Coordinated by the ILO, with the support of the Government and the National Commission to Eradicate Slave Labour (CONATRAE), the campaign has been developed through voluntary contributions of over US\$7.3 million from communications and publicity agencies. The campaign material has been displayed in the top 20 national airports, reaching almost 12 million passengers. State-level campaigns to fight slave labour, in Maranhão, Mato Grosso, Pará

and Piauí, have since been developed. Media coverage of slave labour issues has increased exponentially.

337. The case of Brazil provides a useful illustration of an integrated project of ILO assistance, involving several complementary components, amongst which awareness raising has been prominent.

338. Awareness raising in industrialized countries has helped alert ILO constituents and the public at large to the forced labour affecting migrant workers. Publication and dissemination of the findings of research can provide an excellent opportunity to stimulate broader discussion and action on the issue. Workshops to validate national research findings, held in seven European countries in 2003-04, have informed participants about the labour dimensions of trafficking. In the Russian Federation, separate meetings targeted the employer members of the Global Compact, and workers' organizations representing the construction industry. Following two seminars in Japan in September 2003 and October 2004, media attention to trafficking in that country has grown significantly.

339. Television, film and video coverage can be effective means to alert the public to the dangers of trafficking. In eastern Europe, for example, the video "Bought and sold", produced by the ILO (IPEC and MIGRANT) and translated into local languages, depicts the trauma of women trafficked to western Europe. Increasing media appearances by ILO officials – for example, in the four-part BBC World Service series "Slavery Today", broadcast in late 2004 (to be repeated in 2005), and on the Franco-German channel ARTE in November 2003 – greatly expand the audiences that are reached with core ILO messages on combating forced labour. Clearly, the inclusion of the elimination of forced labour as one of the four fundamental principles and rights at work being actively promoted by ILO DECLARATION's "Work in Freedom" communications campaign serves to emphasize the important interlinkages between the different rights.

340. In Africa, apart from cross-border trafficking in women and children, other contemporary manifestations of forced labour have generally received scant attention. Yet there have been some instances of progress. Initial ILO work in Niger, under the auspices of the project for supporting the application of the Declaration (PAMODEC – *Projet d'Appui à la Mise en Œuvre de la Déclaration*), led to an historic public commitment by the Association of Traditional Chiefs of Niger (ACTN) to combat forced labour and slavery. Subsequent awareness raising has included a community radio campaign, dissemination in local languages of promotional materials, and three regional ACTN workshops to discuss local problems. Regarding trafficking, IPEC has found that, once made aware of the profile of

18. The workshops were organized jointly by the ILO and the Latin American Faculty of Social Sciences (FLACSO).

Box 3.3.
Combating slave labour in Brazil

The ILO project in Brazil aims to combat abusive recruitment practices leading to “slave labour”,¹ particularly in cattle raising and agriculture, and to help strengthen and coordinate action by members of the National Commission to Eradicate Slave Labour (CONATRAE) and other key partners (such as trade unions and the private sector) within and outside the Government, at federal, state and municipal levels. It has six main elements:

- creating a database on slave labour for the Ministry of Labour and Employment, recording regions of incidence and recruitment, the names of offenders, the economic activities involved, and cases where workers fall back into slave labour situations;
- launching national and regional campaigns against slave labour;
- launching a National Plan to Eradicate Slave Labour, including measures for prosecution of offenders, prevention, and rehabilitation of victims;
- capacity building of the partners involved in prosecuting slave labour (mainly the Federal and Labour Prosecutions Offices, the Ministry of Labour and Employment, the Federal Police and other law enforcement agencies), as well as trade unions and NGOs;
- strengthening the Mobile Inspection Group;
- pilot programmes for the rehabilitation of slave labourers, mainly through income-generation activities, capacity building and legal assistance.

Since its initiation in April 2002, the project has steadily gained momentum and increased its activities. In the first year, much attention was given to sensitizing law enforcement agencies, bringing them together in a common platform against slave labour. In September 2002, a high-profile event in Brasilia brought together federal and labour judges, federal and labour prosecutors, labour inspectors and federal and highway police. This stimulated the creation of specific groups to deal with the problem in the Federal and Labour Prosecutions Offices, and also the federal council of the Brazilian Bar Association, with which follow-up seminars were held. The President of the Supreme Labour Tribunal responded by creating new mobile tribunals (*varas itinerantes*) to deal on an immediate basis with the most serious slave labour allegations. Legislative measures included an amendment adopted in December 2002 to ensure the payment of the state portion of unemployment contributions to workers rescued from slave labour.²

The accession to office of the newly-elected Brazilian Government in early 2003 provided renewed scope for the project. It worked closely with the Government on drafting the National Plan to Eradicate Slave Labour, launched with considerable publicity in March 2003. An important next step was to launch the National Campaign to Eradicate Slave Labour. Since then, there has been a series of initiatives by both the executive and the legislature to provide for more effective monitoring and more vigorous prosecution of slave labour offences. In November 2003, a federal law created 269 new labour courts in areas with a high incidence of slave labour.³ The project supported a federal government initiative to issue a “dirty list” of 101 companies associated with the exaction of slave labour, which would henceforth be denied access to public finance. On a more constructive note, in August 2004 an agreement was signed between major steel companies and their workers’ union, under which these companies commit not to buy charcoal from any enterprise that has subjected its workers to slave labour conditions. The project, at CONATRAE’s request, has also supported the Brazilian Government, through an extensive information campaign, for a proposed constitutional amendment to allow confiscation of the property of persons responsible for exacting forced labour. The achievements of the campaign against slave labour in Brazil are reflected in the remarkable increase in workers freed over recent years.

¹ “Slave labour” is the term adopted by the Brazilian Government to refer to forced labour.

² Act No. 10,608 of 20 December 2002, to amend Act No. 7,998 of 11 January 1990, regulating the unemployment insurance programme.

³ Act No. 10,770 of 21 November 2003, to provide for the establishment of labour courts in the regions of the labour justice system, define jurisdictions and make other provisions.

recruiters and recruitment mechanisms, community leaders have proved to be the best whistle-blowers on traffickers. In Ghana, sensitization meetings with traditional chiefs will facilitate this process. Under IPEC’s project on combating the trafficking of chil-

dren for labour exploitation in West and Central Africa (LUTRENA),¹⁹ local vigilance committees against child trafficking have been set up in Benin, Burkina Faso, Côte d’Ivoire, Gabon and Mali.

19. Covering Benin, Burkina Faso, Cameroon, Côte d’Ivoire, Gabon, Ghana, Mali, Nigeria and Togo.

341. Priority has been given to creating awareness among the social partners on the need for concerted action against trafficking and forced labour. In January 2003, SAP-FL and the ILO Bureau for Workers' Activities (ACTRAV) held an informal consultation in Geneva for representatives of workers' organizations and key resource persons on the issues of forced labour, irregular migration and human trafficking in Europe.²⁰ An Asian regional meeting in Kathmandu, Nepal, in March 2003, organized jointly by IPEC, SAP-FL and ACTRAV, brought together workers' representatives from across the region to discuss both child labour and forced labour.²¹

342. The new project on combating human trafficking and forced labour outcomes, covering the Russian Federation, Tajikistan and Uzbekistan, seeks the more active engagement of trade unions in this issue. An October 2004 meeting for trade union representatives in Moscow focused on ways in which unions can improve conditions of Tajik and other irregular migrant workers in the Russian Federation. An information campaign is now being planned through trade unions in several parts of the country.

Advising on law and policy frameworks

343. ILO attention has been directed principally to ensuring that national anti-trafficking laws, policies and programmes give due attention to the labour dimensions of trafficking. Detailed guidelines on trafficking and forced labour exploitation, intended in particular for legislators and law enforcement agents, have been prepared.²² The guidelines review new treaty obligations as regards trafficking, as well as the ILO's own pertinent instruments. They discuss the role of civil, administrative and labour law, and provide practical guidance for identifying and protecting the victims of forced labour, and for prosecuting recruiters and other trafficking auxiliaries. They also examine the roles of different labour, law enforcement and other institutions in combating trafficking. These guidelines are already being put to practical use: for example, a Russian translation was presented at an inter-ministerial workshop in December 2004 in Moscow, to feed into the drafting of a new anti-trafficking Bill. An inter-ministerial workshop in Germany in November 2004 discussed the guidelines, as well as the findings of research in Germany, drawing attention to the forced labour experienced by irregular migrants in different economic sectors.

344. Together with other specialized agencies, the ILO has assisted governments and the social partners in drafting or broadening the scope of National Action Plans against Human Trafficking in coun-

tries including Albania, the Republic of Moldova, Romania and Ukraine. Under the auspices of ILO MIGRANT's project in Albania, the Republic of Moldova and Ukraine, assistance is being given on formulating a policy on "safe migration", and in ensuring that national employment plans benefit actual and potential trafficking victims. IPEC has supported the development of a large number of National Plans of Action against the Worst Forms of Child Labour, including specific National Action Plans against Child Trafficking.

345. In Nigeria, the newly established National Agency for Prohibition of Trafficking in Persons and Other Related Matters (NAPTIP) is now developing a National Plan of Action to combat trafficking, with ILO technical assistance. In September 2004, the ILO organized a national stakeholder workshop with representatives of government agencies, workers, employers and NGOs from different parts of the country. Recommendations for the Plan of Action included amendments to legislation, as well as channelling poverty alleviation programmes to groups vulnerable to trafficking and the establishment of a national monitoring system.

346. Several countries have drawn on the provisions of the Private Employment Agencies Convention, 1997 (No. 181), to introduce a licensing system for private employment or recruitment agencies and to monitor their activities. In Nigeria, for example, where the Labour Code is currently being revised with ILO assistance, a proposed system of licensing and monitoring of private recruitment agencies seeks to prevent their collusion with human trafficking networks. Elsewhere, labour inspectors are being given special powers to inspect sites where forced labour is suspected, and to impose sanctions. For example, the new draft Labour Code of Ukraine stipulates that labour inspectors have the right to visit any buildings and premises where inspectors have reasonable grounds to believe that forced labour is used.

347. The ILO also tackles trafficking by encouraging more open migration policies, arguing that properly managed migration can both empower migrant workers and enrich their countries of origin. An objective of projects in Albania, the Republic of Moldova and Ukraine, and in the Greater Mekong Subregion, is to improve migration law and policy by introducing monitoring of private recruitment agencies and negotiating bilateral agreements on labour exchange. Given the magnitude of trafficking from Albania towards Greece and Italy, the ILO has promoted bilateral agreements to prevent child trafficking and to repatriate victims, and provided technical assistance for the negotiation of these agreements. IPEC

20. Consultation on the Forced Labour Outcomes of Irregular Migration and Human Trafficking in Europe, Geneva, 8-9 Jan. 2003. ILO: *Forced labour, migration and trafficking in Europe*, Special Action Programme to Combat Forced Labour (unpublished document, 2003).

21. Workers' Consultation on the Role of Trades Unions in Fighting Child Labour and Forced Labour, Kathmandu, 3-6 Mar. 2003.

22. ILO: *Human trafficking and forced labour exploitation: Guidance for legislation and law enforcement*, Special Action Programme to Combat Forced Labour (Geneva, 2004).

operates a project against the worst forms of child labour, including child trafficking, in eastern and south-eastern Europe, which adopts an inclusive approach to human rights, including social and labour rights for youth.²³

348. In Pakistan, the thrust of ILO technical cooperation has been to help the Government to implement its 2001 National Policy and Action Plan for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers (NPPA). The ILO provided inputs into the drafting of the Plan and then supported two provincial seminars, hosted by the federal Ministry of Labour, Manpower and Overseas Pakistanis and provincial labour departments, to raise awareness of the Plan and its implementation requirements. Since December 2003, the ILO has supported an Adviser on Bonded Labour to work with the Ministry. Progress at policy level has been made on several fronts, including overcoming obstacles to expenditure out of the Bonded Labour Fund, revising the composition of the National Commission on Bonded Labour Abolition and facilitating its meetings. Proposals have been made for amendments to the Bonded Labour System (Abolition) Act and Rules, in line with changes in political and administrative structures with the devolution of power to district level.

349. In Nepal, the ILO project on the elimination of bonded labour organized a Policy Workshop with the Ministry of Land Reform and Management in Nepalgunj in September 2002. Different organizations met to coordinate efforts for the rehabilitation of freed *kamaiyas* under the umbrella of overall government policy on the subject. Since then, the project has encouraged inter-agency cooperation through regular coordination meetings. Positive outcomes of this include, for example, the pooling of resources by the ILO, the German Agency for Technical Cooperation (GTZ), ActionAid and other NGOs to undertake a joint water supply/irrigation project for freed *kamaiyas*

Training and capacity building

350. The ILO's comparative advantage lies in strengthening the capacity of labour ministries and workers' and employers' organizations to take effective action against forced labour. Activities have been adjusted to the needs of different groups and regions. In Europe, SAP-FL's initial efforts have focused on labour institutions and labour inspectorates, improving cooperation with law enforcement agencies, including the police. In Romania, in cooperation with MIGRANT, a tripartite workshop held in April 2003 in Bucharest concluded that abusive recruitment mechanisms contribute to vulnerability to trafficking and forced labour. A new training manual

on the monitoring of such recruitment was validated during two training sessions in Bucharest, with participants from the Ministry of Labour, organized crime and border police, labour inspectors, private recruitment agencies and trade unions. A subsequent tripartite validation and training seminar for south-eastern Europe at the International Training Centre of the ILO in Turin (the Turin Centre) brought together participants from Albania, the Republic of Moldova, Romania and Ukraine.

351. These activities have prepared the ground for a new project on capacity building to combat the forced labour outcomes of human trafficking, covering selected origin and destination countries of Europe, which started in early 2005. Implemented by the ILO and the Vienna-based International Centre for Migration Policy Development (ICMPD), the project aims to strengthen administrative controls for the detection of forced labour. Target groups are law enforcement officials, especially judges, prosecutors, police and labour inspectors. The project also seeks to strengthen the self-regulation mechanisms of private recruitment agencies and their business partners, and to incorporate the ILO module on the monitoring of private recruitment agencies²⁴ in national training curricula.

352. At the national and regional levels, the ILO has frequently encouraged the inclusion of labour ministries and the social partners in national steering committees or task forces against trafficking. Importance is attached to labour market institutions and information and public employment services, and to encouraging national trade unions to organize informal sector workers. In the Philippines, for example, transport owners and workers have been sensitized to cooperate with port authorities and police in the interception of suspected traffickers. An ambitious new SAP-FL initiative focuses on enhancing the role of labour institutions in combating trafficking within and from China. The project aims to strengthen the law and policy framework against forced labour and trafficking, working with the Ministries of Public Security, Justice and Labour and Social Security, the National People's Congress and the Legislative Affairs Office of the State Council; provide training to labour and other law enforcement officials at provincial level; and engage workers' and employers' organizations in the prevention of trafficking and in the identification of victims.

353. In Pakistan, a recent advance has been the inclusion of bonded labour in the training syllabus of the Federal Judicial Academy, the premier institution providing induction and in-service training to judicial officers in the country. The first two training sessions were held in late 2004 in Islamabad and in Quetta, Balochistan Province. Plans are also under

23. Project of technical assistance against the labour and sexual exploitation of children, including trafficking, in countries of central and eastern Europe (PROTECT CEE).

24. ILO: *Trafficking for forced labour: How to monitor the recruitment of migrant workers*, SAP-FL training manual (unpublished document, 2003).

way to incorporate similar sessions into the training conducted by the National Police Academy, Civil Services Academy and other major public training institutions. A training programme under development in Punjab Province targets key labour department and other officials at provincial and district levels. Such training is expected to sensitize key officials, who can make a practical difference through action on the ground, on bonded labour.

354. In Pakistan, as well as in Tamil Nadu, India, the ILO is supporting the establishment and training of Vigilance Committees, which have the primary responsibility at local level for the detection, release and rehabilitation of bonded labourers, but which often need revitalization. In Tiruvallur District of Tamil Nadu, India, in close collaboration with the District Collector's office, the ILO conducted a training workshop in October 2003 for prospective members of the District Vigilance Committee (DVC) and concerned government and civil society partners, on the basis of which a district-level action plan on bonded labour was prepared. A training seminar in February 2004 with *panchayat* leaders (village council) aimed to encourage community-level monitoring of bonded labour. Already, 13 *panchayat*-level committees have been set up in the project area and others are in the process of being formed. Similar work is planned at the project site in Andhra Pradesh, India, where a pilot "Special Mobile Court" is proposed to address reported cases of bonded labour. In Pakistan, work has focused on Sindh Province, where six DVCs have been set up in bonded labour-prone districts, and will be trained. In Punjab Province, a capacity-building programme was held for all DVCs in early 2005, led by the provincial department of labour, with ILO support.

355. The ILO has already produced some materials to support training delivery. These include the above-mentioned manual on monitoring of recruitment agencies and the legal guidelines against human trafficking and labour exploitation; the GENPROM information guide on preventing discrimination against women migrant workers;²⁵ IPEC's guide on gender equality and child trafficking;²⁶ and MIGRANT's manual on developing safe migration systems.²⁷ The Turin Centre is preparing a training manual on forced labour for ILO constituents, in collaboration with SAP-FL. An important new output in South Asia will be a "toolkit" on bonded labour, with guidance and tools for use by different stakeholders, including government, workers' and employers' organizations, micro-finance institutions, NGOs and human rights groups.

356. A further vehicle for capacity building of ILO constituents and others on forced labour issues is the

Project Advisory Committees (PACs) set up to guide project implementation and policy development. For example, the national-level Broad-Based Task Force of the Nepal bonded labour project brings together representatives from relevant Ministries (including those of Land Reform, Labour and Forestry) as well as the social partners. It has actively supported project implementation in the face of a very challenging implementation environment. In Nigeria and Ghana, the PACs operate under the direction of the Ministry of Labour. The national agencies and task forces on trafficking and the Ministry of Women's Affairs, as well as the immigration and police authorities, play an active role in adapting project interventions to national needs. PACs from countries participating in subregional projects can usefully be brought together. For example, members of the Russian Federation and Tajikistan PACs engaged in constructive dialogue and agreed on future collaboration at a joint meeting in September 2004 in Moscow.

357. In Israel, the ILO is working with the General Federation of Labour in Israel (Histadrut) to promote the inclusion of foreign workers, especially Chinese migrants, as members with equal trade union rights. Recruited from rural areas, most Chinese migrants have only a basic education and do not speak English or Hebrew, making it difficult for them to integrate into Israeli society. Their precarious legal status aggravates isolation and vulnerability to forced labour exploitation. The Histadrut aims to enhance Chinese workers' awareness of working rights, legal status and available local assistance. With SAP-FL support, a first training programme for mainly Chinese construction workers was held in late 2004, providing practical information on trade unionism, protection of rights, the situation of migrant workers in Israel and elsewhere, and relevant ILO Conventions.

Community-based prevention and rehabilitation

358. ILO experience in community-based prevention of forced labour and rehabilitation of its victims is most advanced in the fields of combating child trafficking globally and of bonded labour, specifically in South Asia. The former issue will be treated in the 2006 Global Report on child labour. This Report focuses on ILO experience in tackling bonded labour in South Asia.

359. The ILO's first project to tackle over-indebtedness and bonded labour in the South Asian subregion involved Bangladesh, India, Nepal and Pakistan. Initiated by the Social Finance Programme (SFP) in

25. ILO: *Preventing discrimination, exploitation and abuse of women migrant workers: An information guide*, Gender Promotion Programme (Geneva, 2003).

26. N. Haspels; B. Suriyasarn: *Promotion of gender equality in action against child labour and trafficking: A practical guide for organizations* (Bangkok, ILO, 2003).

27. M. Abella: *Sending workers abroad: A manual for low- and middle-income countries* (Geneva, ILO, 1997).

2000, it was based on the premise that appropriate microfinance services, adapted to the special situation of very poor households, should be a core component of an effective strategy to prevent debt bondage. At that time, approaching bonded labour from the perspective of preventing indebtedness was most acceptable to partner governments in the subregion. More recently, with SAP-FL and SFP joining forces, the project to promote the prevention and elimination of bonded labour in South Asia (PEBLISA) has partially reoriented its approach. In Nepal, a joint DECLARATION/SAP-FL and IPEC project addresses the specific issue of rehabilitation of former *kamaiya* families.

360. Bonded labour arises from a web of relations between worker and employer, including but not limited to financial dependency. Discrimination and social subordination are important root causes. Hence, PEBLISA seeks to develop financial and non-financial interventions for both the prevention of bonded labour and the rehabilitation of released bonded labourers. Many components are common to all project sites, but adapted to the local circumstances – primarily, the development and testing of microfinance services that meet the special needs of mainly women members of the target group, organized in self-help groups (SHGs) (see box 3.4), accompanied by various other interventions for social and economic empowerment.

361. In Ranga Reddy District, Andhra Pradesh, India, the target group was chosen using selected indicators of vulnerability to debt bondage: these are the poorest of the poor households (mostly *dalits*).²⁸ The majority work as casual agricultural wage labourers, and women dominate the agricultural labour force. Landlords often prefer to employ children and youth as bonded labourers, as their cash advances tend to be considerably lower than for adults. Operating through a local *dalit* organization, the project federated women's savings and credit groups (SCGs) into cooperatives that function as microfinance institutions, owned and managed by community members. These have disbursed over 2,500 loans to meet consumption and income generation needs. Bridge education for children, adult functional literacy, health care and awareness raising on social issues are complementary components. Research has sought to understand better the factors that lead employers to use bonded labour, as well as the gender dynamics. New project components include work with Vigilance Committees and with workers' and employers' organizations.

362. In Tamil Nadu, India, the project works in drought-prone Tiruvallur District, where agriculture is the mainstay of the rural economy. Brick kilns, power looms and rice mills are also significant employers. It targets over 2,200 of the poorest families (of which 12 per cent are headed by women), the vast majority belonging to Scheduled Castes and

Scheduled Tribes, all at risk of bondage or currently with bonded family members. At this project site, individual family savings boxes, where money can be deposited on a voluntary daily basis, have proved particularly popular – in many cases, more than doubling the amounts saved, as well as inducing men to save by cutting down their alcohol consumption.

363. Street theatre has been used to encourage the reduction of unsustainable social expenditures; diverse training is delivered, including market-oriented vocational skills; an insurance scheme provides incentives for enrolment of children in schools and functional literacy classes are provided for adults. The increased confidence of women group members is reflected in their demanding that the local government provide title deeds for their house plots, pre-schools for children and ration shops for their villages. The gender dynamics within households are starting to change for the better, thanks to initiatives to involve men in SCGs, joint action committees, literacy and vocational skills training and “gender mapping” sessions. New efforts to explore how SCGs might be linked to trade union structures, so as to build strong village-based worker organizations, show considerable promise.

364. The project's work with Vigilance Committees has taken on heightened significance, given recent activism on bonded labour in rice mills in the district. The project is endeavouring to promote social dialogue between the different parties. A project-sponsored meeting in late 2003 was attended by around 100 employer association representatives from the power looms, rice mill and brick kiln sectors, and resulted in a series of resolutions. It represents a start in engaging employers in effective action to regulate the system of advance wage payments. The involvement of employers' and also workers' organizations is essential if bonded labour practices are to be curtailed effectively.

365. Elsewhere in Tamil Nadu, ACTRAV has also been organizing women's SHGs, through six trade union organizations. Almost 1,200 women's groups are meeting regularly to save and seek loans for income-generating activities, such as cattle raising, weaving and baking. Group members pay a nominal charge for trade union membership. Collective action can be used to solve many problems. In one area, collective action through the trade union United Front for Rural Plantation and Construction Workers (UNIFRONT) has brought about a 75 per cent increase in the daily wage for women agricultural labourers. In another area, workers in the weaving sector have also secured improvements in pay and conditions from their employers and contractors, and now plan to form their own cooperatives. Collaboration between ACTRAV and PEBLISA promises to bring additional benefits through mutual support and lesson-learning.

28 “*Dalit*” is the term popularly used to refer to Scheduled Castes; literally, it means “the oppressed”.

Box 3.4.
Microfinance and bonded labour

Microfinance can be important both for reducing the dependence of workers on wage advances from their employers, and for effective rehabilitation of released bonded labourers.

PEBLISA is collaborating with local microfinance institutions (MFIs) to test a range of financial services specially tailored to the needs of households at heightened risk of falling into debt bondage. Such families need financial services to smooth income and expenses, to manage risks, and possibly to pay for social obligations – in essence, removing the need for employer credit.

Experience indicates the need for four core financial services, with the emphasis on savings mobilization rather than credit, at least in the first instance:

- (1) *“Contractual” savings*: The project emphasizes savings and asset building to create a buffer for the household to fall back on in times of emergency. Clients “contract” to save a fixed amount of money, however small, on a regular basis. They are meanwhile assisted with household financial planning, so as to produce a lump sum of money for a specific purpose, such as house construction, school fees or religious ceremonies.
- (2) *Liquid savings*: Families vulnerable to bondage need a safe place to store small amounts of surplus cash, where it is accessible in times of need, but not so accessible that the temptation to spend is hard to resist. In some cases, savings are deposited weekly or fortnightly during group meetings. But in others, where pressures to spend are the highest, clients are provided with lockboxes that are kept at home so they can save on a daily basis; accumulated savings are then deposited at the group meeting.
- (3) *Income-generating loans*: Innovative approaches to credit for income-generating activities aim carefully to avoid putting clients in a potentially worse situation through increasing their debt. The project is experimenting with very small loans; penalty-free repayment holidays; tailoring repayment schedules to the household’s expected cash flow; and allowing each borrower in a group to have individual customized loan amounts and terms, or no loan at all if they so wish.
- (4) *Emergency loans*: These are sometimes given in parallel with an income-generating loan. The project strives to cultivate an approach to repayment discipline in which the carrot greatly outweighs the stick, with plenty of second chances given, as long as the problem clearly stems from an inability rather than an unwillingness to repay.

Alongside the core financial services, the project also provides necessary supporting services such as household financial planning to identify sources of high expenditures (dowries, religious ceremonies, alcohol) and financial education; awareness raising on the legality of employer and moneylender loans; community mobilization to cut down on unsustainable expenditures; and skills training to start or expand income-generating activities. Other services being tested include micro-insurance, debt consolidation loans and land leasing.

366. In Pakistan, field-based work has focused on the rehabilitation of released or escaped bonded *hari* families living in seven temporary camps in and around Hyderabad in Sindh Province. Complementary work in Sindh Province aims to reinforce implementation of the Bonded Labour System (Abolition) Act. With ILO support, the Human Rights Commission of Pakistan has, for example, produced a booklet on the abolition of bonded labour for use in training Vigilance Committees; conducted a series of stakeholder workshops on the role of Vigilance Committees; and set up a pilot legal aid service for bonded *haris* seeking relief through the courts.

367. In Nepal, the Sustainable Elimination of Bonded Labour (SEBL) project is helping some 14,000 former *kamaiya* families to build new secure and stable livelihoods, following the legal abolition of the system. For most, this is based on wage labour or tenant agriculture, supplemented by earn-

ings from micro-enterprise. The project targets both adults and children in the five districts of the Terai region where the *kamaiya* system prevailed. For adults, organizing workers through established trade unions and educating them on their rights has been a central project component. This is accompanied by efforts to promote and monitor implementation of minimum wages and other labour standards, and to organize community-based vigilance committees to guard against relapse into bonded labour, child labour and other labour exploitation. Vocational training coupled with microfinance services aims to help families increase, diversify and stabilize their income, through activities such as off-season vegetable growing, bee-keeping and small animal husbandry. An innovative pilot micro-health insurance programme is testing group-based schemes adapted to the poorest households. School-age children are either being enrolled into mainstream schools or receiving non-formal

education as a bridging measure, depending on their age and situation. Some material support is also being provided to upgrade the quality of schools. Special efforts enable the reintegration of *kamalharis* – girls who were bonded into domestic service – back into their families and communities.

368. Despite the unstable political situation in Nepal, project partners have been able to adapt their strategy and make significant progress on many fronts. For example, the project reports that 45 per cent of adult former *kamaiyas* are now registered trade union members; 80 per cent of agricultural labourers in project districts (both women and men) are paid at least the minimum wage; the literacy rate has increased from 38 to 55 per cent, significantly higher than the national average; nearly 11,000 children, half of them girls, have been mainstreamed into formal schools and provided with uniforms and books; and over 1,200 people have benefited from skills training, 21 per cent of them women. PEBLISA is now providing microfinance expertise across the project area. As the project draws to a close in mid-2005, particular emphasis is being placed on ensuring sustainability of impact through the ongoing work of local partners.

369. In Bangladesh, there is as yet no official recognition of bonded labour. The project has therefore focused on over-indebtedness in selected sectors. Research has provided evidence of bonded labour of girls in commercial sexual exploitation, and of labour exploitation linked to over-indebtedness in the weaving sector. Local microfinance institutions are testing design and delivery of appropriate microfinance for these vulnerable groups, such as a daily savings collection service and emergency loans. Most of the women had never previously participated in a collective activity and had been bypassed by mainstream MFIs, such as Grameen Bank, because they represented a credit risk.

What have we learned through ILO technical cooperation?

370. Important lessons on combating forced labour have emerged through this intensive ILO experience. Indeed, both the Office and ILO constituents have been climbing, together, a steep learning curve over the period. Much of this work has been exploratory in nature, and often conducted on a pilot scale. On such a sensitive issue as forced labour, it is essential to proceed with caution if all partners are to be kept on board and due regard is to be given to the victims of forced labour themselves.

371. Experience demonstrates clearly that national stakeholders must be actively engaged and informed at every stage of the design, implementation and monitoring of ILO technical assistance against forced labour. Such assistance must be embedded firmly within national strategies, priorities and plans for promoting workers' rights. This means

not only government at national and local levels, but also employers' and workers' and other civil society organizations.

372. High-level political commitment and leadership provide an essential impetus to action against forced labour, and are likely to be reflected at all other levels both within and outside government. Without such commitment, interventions by external agencies or by civil society can have only limited impact. This points to the critical importance of policy-oriented advocacy and broader efforts to raise the awareness of civil society so as to create an effective demand for policy change. Policies and action against forced labour need to be firmly embedded in broader policies to combat poverty, unemployment, discrimination and organized crime.

373. Appropriate legislation is central in the fight against forced labour. Law enforcement officials must also be fully conversant with the provisions of legislation and how to put it into practice. Different legal instruments and processes need to be brought to bear, in complementary fashion – including criminal, civil, immigration, labour and administrative laws, in line with international law.

374. Forced labour and trafficking are cross-cutting issues that require inter-ministerial and inter-agency collaboration through institutional coordination mechanisms, task forces or committees, with broad membership (for example, ministries of labour, interior, justice, women's affairs, social welfare, trade and industry, land reform and agriculture). For forced labour related to trafficking, in particular, cooperation across national and regional boundaries is essential, with coordinated action in countries of origin and destination. And similarly within countries, where so much of forced labour involves migrant workers, interventions are called for at points of origin and destination of these workers.

375. Sound understanding of the nature and, if possible, size of the forced labour problem to be tackled is a necessary precursor to effective action. Experience shows clearly that investigating forced labour does not lend itself to conventional survey techniques. It calls for innovative, informal ways of conducting enquiries that do not arouse the suspicions of the exploiters of forced labour or put victims at increased risk. Methods must be flexible and researchers experienced. Forced labour situations are often very difficult to identify in practice, requiring probing to build up a comprehensive understanding of a wide range of factors impinging on the possible victim. Forced labour affects women and men, boys and girls in different ways, so all research must actively address gender dimensions. And equally, given the links between forced labour and other forms of discrimination, due attention must be given to racial, religious and social origin dimensions.

376. Given the sensitivity of forced labour, awareness raising and dissemination of the findings of

research on forced labour must always be handled cautiously. Governments and social partners that show courage in tackling these difficult issues must be given due recognition for this, and receive assistance from the international community to help them overcome any forced labour problems that come to light, rather than being subjected to criticism.

377. The social partners have key roles to play, for example by raising awareness of forced labour through their wide-reaching networks of membership-based organizations. Employers' organizations can contribute to the monitoring of recruitment agencies for the prevention of forced labour and trafficking; and workers' organizations can reach out to workers in the informal economy where forced labour practices prevail. Regarding trafficking, trade union organizations in the transportation sector, for example, offer particular strengths, as well as those in the key sectors hiring irregular migrants and trafficked victims. The capacity of employers' and workers' organizations to fulfil these roles needs to be further enhanced.

378. Knowledge sharing is a key aspect of anti-trafficking and other work against forced labour. Good practices must be documented on a systematic basis. Study tours and international meetings have proved useful for cross-fertilization of experience. Information on forced labour and tools to combat it must be made available in local languages. And where so many international agencies are involved in accordance with their individual mandates, there is a need to establish an inter-agency learning environment where information on effective strategies can be widely shared.

379. In all community-based prevention and rehabilitation programmes, the active participation of local people in design and implementation helps ensure that interventions are really relevant to their needs and priorities. Strategies need to go beyond the symptoms of forced labour to address its root causes, including entrenched social and gender discrimination, poverty, illiteracy and landlessness, labour market failures, and poor people's exclusion from equitable financial services and social protection. Social empowerment of actual and potential victims is fundamental to any strategy to eliminate forced labour.

380. A uniform approach to all manifestations of forced and bonded labour is not appropriate. The interests of the victims must always come first. Victims of severe exploitation need urgent release and rehabilitation, and their exploiters must be prosecuted. Law enforcement must be strengthened so as to provide credible sanctions for the use of bonded labour and a credible means of recourse for its victims. But the release of bonded labourers, without sufficient accompanying support, risks making them worse off.

Comprehensive rehabilitation plans (including psychological rehabilitation), established together with the beneficiaries, must first be in place and then be implemented effectively and immediately.

381. Short-term forms of bonded labour (for example, involving cash advances that are repayable in a reasonable time-frame), as well as prevention programmes, may call rather for an integrated set of social and economic empowerment measures. These can uplift people to the point where they can benefit from mainstream poverty reduction schemes. Targeting women in project interventions, particularly in the South Asian context, is necessary but not sufficient; it is increasingly evident that men too must be involved. Only then can gender equality issues be effectively addressed in the broader household and community context. Similar experiences gained from IPEC's activities against child trafficking, in different regions, have also shown the importance of such a gender-based approach.

382. Important lessons are emerging too about the role of microfinance in combating bonded labour. For example, microfinance is proving itself as a valuable part of an integrated prevention strategy, but is less appropriate for people already trapped in bondage, as their employers would likely siphon off the benefits. Curtailing the demand for bonded labour amongst its users, then, must go hand in hand with efforts to empower workers against being exploited. Employers of bonded labour can be constructively engaged in efforts to curb the practice, by devising alternative contractual arrangements and more productive workplaces and technologies.

383. Forced labour is often rooted in long-standing problems of poverty, inequality and discrimination. Time is needed to overcome these problems. Projects by themselves cannot eliminate forced labour or achieve results overnight. A real impact on a significant scale is possible only when national and international partners replicate project approaches and activities more widely. Most importantly, the ILO's experience in combating forced labour at community level attests, once again, to the capacity of people in poverty, when given the opportunity, to fight back against the injustices and difficulties they confront in their daily lives. Forced labour victims across the world demonstrate their resilience to withstand the indignities to which they have been subjected and their ability to look to a better future. Many have re-emerged to build new lives for themselves and their families. Herein lies the strongest hope that forced labour can and will be eliminated. With concerted efforts by a wide range of partners at national and international levels to support such people, real and rapid progress can be made in eliminating forced labour.

2. Proposed action plan

384. The first Global Report on forced labour called for a concerted programme of international action against forced labour, identifying its eradication as a common global responsibility. It was appropriate for the ILO to take the lead, but an effective programme against contemporary forms of forced labour required a strong global commitment from several organizations within the United Nations system and its specialized agencies, and from regional bodies and development banks.

385. This second Global Report issues much the same challenge, but in a more focused way. We now have a better understanding of the numbers involved, and of the characteristics and gender and ethnic composition of forced labour in different regions of the world. The main messages are quite straightforward. Face up to forced labour. Tackle the roots of forced labour, which are embedded in patterns of discrimination, deprivation and poverty. Identify when labour market characteristics, including inadequate regulation and weak or non-existent labour inspection, are facilitating the growth of new forms of forced labour. Adopt clear legislation, enabling all concerned employers' and workers' organizations as well as the general public to understand the parameters of forced labour. Give law enforcement agents the capacity and resources to implement law and policies, and to identify, track down, prosecute and punish offenders. Establish time-bound action programmes, with the involvement of labour ministries, employers' and workers' organizations, and other national and international partners. Give such time-bound programmes extensive publicity through local and national media. In this way, the world can make a real dent in forced labour over the next four years. We can realistically seek the eradication of all forms of forced labour by the year 2015, engaging other parts of the international system and national governments in this effort.

386. For the most part, the numbers of people trapped in forced labour situations are not so large as to make its eradication a distant dream. The Asian region, with its manifold forms of forced labour, does represent a particular challenge to which the corresponding priority must be accorded. Protecting indigenous peoples, vulnerable minorities and also children against forced labour, in Latin America and elsewhere, can also call for comprehensive reforms of an economic, social and political nature. Poverty reduction programmes will have to take forced labour concerns on board far more rigorously and comprehensively than in the past. The eradication of forced labour can make a truly significant contribution to the Millennium Development Goal of halving extreme poverty and hunger by 2015.

Elements of a global Action Plan: General issues

Basic goals and targets

387. All concerned member States should have devised, and put in place, time-bound action programmes for the eradication of forced labour by the end of the 2005-08 four-year period to meet the goal of eliminating all forms of forced labour globally by 2015.

A global alliance against forced labour

388. The time has now come, following the earlier success of action against child labour, to galvanize concerted action through the creation of global and local partnerships. An effective global alliance against forced labour needs different components. These include alliances between employers' and workers' organizations, alliances with the academic and policy communities and other civil society organizations, alliances with the United Nations system and with other international bodies, and alliances with bilateral and multilateral development agencies. The nature of such alliances will of course vary, depending on the commitments which the various agencies and actors are best equipped to undertake. The OSCE's Alliance Against Trafficking in Persons – with its combination of technical meetings and high-profile political events with ministerial participation – could provide a useful model.

389. Following discussion of this Report at the 93rd Session of the International Labour Conference in 2005, preliminary consultations will be held to enable the different potential partners to identify their particular contribution to the global fight against forced labour. To discuss the options and stimulate the appropriate response, it is proposed to hold at ILO headquarters a high-level international meeting to launch a concerted initiative against forced labour in 2006. The meeting would bring together the ILO's tripartite constituents with other major national and international actors and agencies with important roles to play in combating forced labour. It would give particular attention to the role of international financial and development institutions concerned with poverty reduction, examining how a commitment to the eradication of forced labour can help meet their targets of poverty reduction. This could be followed by regional meetings, to focus on the particular manifestations of forced labour in each region.

*National action:**General principles and approaches**National action plans and policies*

390. Time-bound national programmes, in which specific targets are set over a fixed period, are a suitable mechanism for addressing a problem such as forced labour. In addition to time-bound programmes, forced labour concerns will need to be incorporated within a range of different policy frameworks at the national level. These would include, at least, poverty reduction strategies and programmes, labour market and employment policies, migration policies, and gender equality policies and programmes. It is proposed that national task forces on forced labour be established at the earliest possible opportunity (led by ministries of labour, but including other pertinent ministries), with the involvement of employers' and workers' organizations and other bodies which can make a particular contribution.

Legislation and enforcement

391. The need for clear legislation against forced labour, with sufficiently specific provisions and with the appropriate penalties and effective enforcement mechanisms, has been stressed throughout this Report. Although the ILO's forced labour Conventions now enjoy close to universal ratification, this has not yet been translated everywhere into readily usable legal frameworks enabling member States to move forward firmly against new and evolving patterns of forced labour.

392. Laws need to be adapted to national circumstances. In cases of forced labour and trafficking, involving migration from origin to destination countries, there can be a need for both groups of countries to harmonize aspects of their law and law enforcement procedures. Such frameworks need to emerge through consultation and dialogue, including employers' and workers' organizations, and to be based firmly on human rights principles and international law. They should provide appropriate mechanisms for the identification, release, protection and rehabilitation of forced labour victims; for penalties for the crime of forced labour; and for appropriate and perhaps innovative structures for enforcing the law (which can include mobile inspection units and even mobile courts, when much of the forced labour incidence is in remote areas). Legislation should address compensation for victims as a means to combat forced labour, thereby creating both an incentive for victims to denounce forced labour and a deterrent for those who impose it.

393. Capacity building needs to be provided to all those involved in law enforcement, including the institutions operating at local and grass-roots levels. In

some cases, there may be a need for bilateral agreements to deal with particularly abusive patterns of migration. Measures should be taken to strengthen inter-agency coordination between labour and justice ministries, labour inspectorates, and authorities responsible for prosecution of forced labour offences. The initial ILO guidelines for legislators and law enforcement may serve as a preliminary tool.²⁹ Intensification of this kind of work is now clearly required, in close cooperation with other concerned agencies of the United Nations system.

Rehabilitation programmes

394. Countries have a clear and urgent responsibility to put in place comprehensive rehabilitation programmes, adapted to the particular needs of men and women, boy and girl victims of forced labour. Experience shows that without proper rehabilitation support in place, rescue and release of forced labourers may put them in an even more vulnerable situation, and lead to relapse into forced labour, or worse. The content of such programmes should be designed in consultation, wherever possible, with their proposed beneficiaries. Their overall approach should be one of social and economic empowerment, enabling victims to rebuild their lives and develop secure livelihoods in conditions of freedom and dignity. Rehabilitation programmes can involve several different partners working in close coordination, each bringing their particular expertise and resources to bear.

Thematic issues and priorities by region

395. Priorities for action are bound to vary according to geographical region, depending on the main characteristics of forced labour. The first Global Report on forced labour already identified some priorities, including: addressing forced labour through rural development; forced labour and trafficking; domestic work; and the need for a special programme against bonded labour in South Asia. Work is already under way on most of these themes.

396. In all developing countries, there needs to be intensified work on the linkages between poverty, discrimination and forced labour. Where the persistence of forced labour is still linked to customary practices and beliefs, it is important to engage traditional political and also religious authorities in action against forced labour.

397. In Africa, pilot work in countries such as Niger has shown the value of working with traditional authorities to deal with a cultural legacy of slavery. The involvement of traditional leaders in this country has helped prepare the ground for precise legislation against forced labour. Such models are important throughout Africa, perhaps most particularly those

29. ILO: *Human trafficking and forced labour exploitation*, op. cit.

with a legacy of slavery and slavery-like practices. A prerequisite for effective action against often complex patterns of forced labour in the African continent will be the involvement of traditional leadership structures in the formulation of action plans and new legislation.

398. In South Asia, action against bonded labour systems needs to be accorded yet higher priority by national governments, and by the development and donor community. Innovative research programmes have shed much light on the nature and causes of the problem, the sectors involved, and the strategies needed for effective action against bonded labour. It has become clear that Asian bonded labour can only be eradicated through a judicious mix of law enforcement, more equitable land and labour markets, community empowerment and organization, and improved access by the extreme poor to credit and other financial services. The correlation between bonded labour systems and extreme poverty has also been amply attested, suggesting that poor and vulnerable families can have no realistic hope of extricating themselves from the poverty trap while bonded labour systems survive. When several millions are affected, it is an economic as well as a moral imperative that development agencies, which base their strategies on poverty targeting and the eradication of extreme poverty, should single out these bonded labour systems for priority attention by government at all levels.

399. In Latin America, recent ILO research has confirmed earlier perceptions that indigenous peoples are particularly vulnerable to forced labour situations, above all in remote regions. In line with the principles of the ILO's Indigenous and Tribal Peoples Convention, 1989 (No. 169), widely ratified in this region, this calls not only for the full involvement of representative indigenous organizations in policies and plans of action against forced labour, but also for the targeting of poverty reduction programmes and resources at those areas where the incidence of forced labour has been widely documented. In cases where indigenous peoples migrate from home communities to other areas of forced labour incidence, such programmes can be targeted at areas of origin as well as destination. They should strengthen the capacity of indigenous peoples to negotiate improved conditions of recruitment and transport, as well as better living and working conditions, and effective inspection of these, at the place of destination. The work already under way by the international financial institutions, which are giving increasing attention to poverty reduction and development for indigenous peoples in their overall lending programmes, should be intensified in coordination with the ILO.

Forced labour, migration and trafficking

400. There are now several international, regional and national action plans against trafficking. The main issue for this Report is how – following the approach of the EU Experts Group on Trafficking in Human Beings and others – value can be added to global action against trafficking by addressing it from a forced labour perspective.

401. National action against trafficking appears to have been most comprehensive when labour ministries and institutions have been involved in anti-trafficking laws and policies, and in the inter-agency task forces established to coordinate action against trafficking. This has facilitated a balanced and integrated approach, combining law enforcement, victim identification and protection, prevention and rehabilitation. The Action Plan should continue to emphasize the labour dimensions of trafficking ensuring, first, that national laws and policies on the subject give full attention to the forced labour outcomes and, second, that capacity building for national institutions involves employers' and workers' organizations, labour courts, labour inspection services and employment agencies, as well as the police and other agencies responsible for the enforcement of criminal justice.

402. With the entry into force and already extensive ratification of the Trafficking Protocol, an important process of law reform is now under way in many countries. All countries should include provisions against trafficking and its forced labour outcomes in their criminal laws. In doing so, they should ensure that immigration and other administrative laws are adjusted accordingly, involving labour law as well as immigration experts in the drafting process. And the adoption of new anti-trafficking laws needs to be followed by intensive training programmes. Moreover, an essential condition for the effective application of these laws is the establishment of protection mechanisms to encourage victims to cooperate.

403. Until now, the focus of attention has been very much on the sending countries, which are expected to bear the burden of action against trafficking. There is a need for more awareness of the impact of demand in industrialized destination countries. Finally, the significant incidence of forced labour exploitation of irregular migrants in destination countries points to the urgent need for improved and more rational migration management. Bilateral migration agreements are one solution. In 2004, the International Labour Conference reached consensus on the need to develop a multilateral framework for improved migration management.³⁰ Sending countries need a strengthened capacity to negotiate such agreements. Other preventive measures include

30. Conclusions on a fair deal for migrant workers in a global economy, in ILO: *Provisional Record* No. 22, International Labour Conference, 92nd Session, Geneva, 2004.

labour market information systems, providing information on overseas employment opportunities, and better monitoring of both public and private employment agencies.

Research needs: Reaching out to the academic community

404. Universities and research and policy institutions are key actors in improving the knowledge base on forced labour. Worldwide, our research for the global estimate could identify very few books, theses or learned articles on the subject. On bonded labour in Asia, for example, the information base appeared to be greater in the 1980s than 20 years later.

405. There is now a need and an opportunity for major centres of learning to develop programmes or courses on the subject, in cooperation with the ILO. This can be a natural area of interest for human rights centres in universities throughout the world. It can be an aspect of gender and ethnic studies, labour studies, development studies, or others with an interdisciplinary focus. The few existing institutes that focus on slavery can be encouraged to broaden their field to include modern forms of forced labour.

406. The scope of potential areas of policy research to propose pragmatic solutions cannot be covered in detail here. However, some priority should be given to difficult issues, where there is lack of consensus as to whether current practices constitute forced labour, and where a firmer knowledge base is essential for proposing solutions. One example is the forced labour aspects of prison labour. An ILO technical consultation has recommended a research programme on the general issue of forced prison labour, covering such aspects as: the magnitude of prison labour; the impact of different types of work on the well-being and skills of prisoners; the empirical meaning of consent; the actual work regime in prisons; and the elements of a fair and acceptable prison labour model.

Specific action for the ILO

407. The Governing Body took a resolute step in 2001, in creating the Special Action Programme to Combat Forced Labour (SAP-FL), to give greater internal coherence and external visibility to ILO activities. The time has come to increase the focus on activities against forced labour within the Office and the Organization, enabling the ILO to have a decisive and highly visible impact on this problem of truly global dimensions. As this Report indicates, the foundations on which to build are already in place.

Forced labour, poverty and fair globalization

408. There can be no room for forced labour in a fair globalization. Tackling the aspects of contemporary forced labour that are related to globalization can be a concrete means of contributing to a fairer globalization. There is a need to identify specific steps to be taken by the different kinds of market or transition economy, or developing countries, against the forced labour problems that can be linked to globalization. The ILO Action Plan could identify specific targets for each year of the next four-year period.

409. A similar strategy can be pursued for the longer-term targets of the Millennium Development Goals up to 2015. The Action Plan can identify incremental targets for eradicating the forced and bonded labour problems linked to structural poverty and discrimination, for two- or three-year periods up to 2015.

The role of employers' and workers' organizations

410. Involving the social partners more intensively in action against forced labour is a clear priority. It will require a concerted effort, backed by targeted investment and resources. Employers and their representative organizations have a very obvious reputational interest in ensuring that there is no forced labour in their supply chains. Forced labour has received insufficient attention to date in the growing movement to promote socially responsible business practices. Employers' organizations can develop their own time-bound action programmes over the period. These organizations – and particularly those in the sectors related to trafficking, such as transport, tourism and entertainment – can promote codes of conduct for their members, to ensure careful vigilance against any possible involvement of forced labour or trafficked migrants in their businesses. They can also seek to influence the behaviour of non-member employers by developing and disseminating good practice regarding labour contractual and other arrangements.

411. The capacity of the social partners to reach out to workers in the informal economy, where much contemporary forced labour is occurring, must be further enhanced. Empowering such workers through association with others can be an important means of tackling their vulnerability to forced labour situations. It is often not feasible for these workers to join a formal trade union, owing to the precarious nature or other characteristics of their employment. However, trade union officials and members can put their organizational expertise at the disposal of informal associations or groupings of certain categories of workers – such as domestic workers or migrant workers – and facilitate their access to formal social dialogue forums. The redress mechanisms available to documented migrant workers should be extended also to undocumented migrant workers through

trade union action. Unions, too, can make time-bound plans in this respect, for example, focusing their activities on one particular economic sector for each year up to 2008.

Data gathering on forced labour

412. The global estimate is only a start. Its innovative methodology shows what can be achieved in a very short time, to begin to come to grips with the global dimensions of forced labour. The real challenge is to develop reliable forced labour statistics at the national level, providing benchmarks by reference to which progress can be measured over time. An ILO priority is to provide training and capacity building on the methodologies and techniques that can be applied to this end. Efforts might begin with those States that have recognized the gravity of their forced labour incidence, and have pledged themselves to move forward against it. A start can be made in 2006, with selected countries from the industrialized, developing and transition economies.

413. Building on the work accomplished to date, the ILO can also further develop innovative approaches to qualitative and action research, in partnership with the academic community, so as to strengthen further the understanding of the different aspects of contemporary forced labour, its causes, its consequences and how best to tackle it.

Operational projects

414. The ILO's role is to help develop, through practical operational projects in collaboration with national partners, effective methods and approaches for the eradication of the different forms of forced labour. These can then be adapted and applied on a much wider scale by governments, the social partners, NGOs, development agencies and others. These "models" of interventions will comprise different, linked components, addressing upstream policy and legal issues, capacity development of the key institutions involved in tackling the problem, and field-based prevention and rehabilitation programmes for forced labour victims. The ILO has particular strengths to bring to bear in terms of employment-related areas of vocational skills training, employment creation, job placement, microfinance and micro-enterprise development as means for both prevention and rehabilitation. Social protection is another area where the ILO has a clear comparative advantage. Innovative mechanisms for labour inspection and monitoring in the sectors of the economy prone to forced labour practices also need to be developed and tested, building on experience with new approaches to monitoring for child labour.

415. Particular emphasis will be placed on the careful documentation of all experiences, and the production of a range of user-friendly tools, guide-

lines and materials in a variety of forms and media that can be widely used by partners.

416. In line with the analysis presented in this Report, integrated operational projects will be clustered around the following two principal themes.

Forced labour, poverty and discrimination in developing countries

417. Both regional and national projects, some focusing on thematic concerns, will be further developed. Priority will be given to countries or groups of countries which adopt appropriate legislation and time-bound action programmes in the near future. Further priority will be given to member States which are able to develop action programmes in specific states or provinces where serious forced labour incidence has been detected. Governments should be encouraged to involve the social partners, as well as local authorities and civil society institutions. Such projects should include field-based components for developing and demonstrating good practices in combating forced labour, as well as policy advice that feeds into broader national strategies for poverty reduction and the promotion of good governance and human rights.

418. It is proposed to develop at least two such projects per year over the 2005-08 period, distributed as equally as possible between the developing regions, and building on successful experience to date. The work on the eradication of bonded labour systems in South Asia, for example, will need to be further expanded. Further project interventions will be required at the local and district level, sometimes focusing on specific economic sectors such as rice mills or brick kilns, and involving both employers' and workers' organizations and grass-roots agencies, together with local authorities. Such local or state-level initiatives will need to be complemented by more upstream activities at the national level, with a focus on capacity building for law enforcement agencies and the judiciary, and other concerned government institutions.

419. In Africa there is both scope and need for a regional programme in the countries which have a legacy of slavery, and where continued problems are experienced by families of slave descendants. Particular focus will have to be placed on awareness raising for society at large, and on practical measures to ensure that vulnerable groups have fair access to land and other assets to satisfy subsistence needs.

420. In Latin America, while operational programmes targeted at indigenous victims of forced labour may first be developed at the national level (and in specific provinces where indigenous victims of forced labour have been primarily located), there is also scope for a larger programme of regional cooperation, enabling individual countries to learn lessons of best practice. Different regional or subregional

programmes can be developed progressively over the four-year period. One such programme could focus on Mexico and Central America; another on the Andean countries with a large proportion of indigenous populations; and a third programme on the countries of the Amazon basin, where serious forced labour incidence has particularly affected isolated indigenous peoples.

Forced labour, migration and trafficking

421. The thrust of ILO programmes in this area should be to build on national and regional plans of action to combat human trafficking, ensuring that the problem is addressed in the context of labour migration. As in the first generation of SAP-FL projects, these should bring together labour market actors from both the origin and the destination countries, with a view to responding to migration pressures in countries of origin and channelling the flow of workers towards sectors in which there is a shortage of labour in destination countries.

422. These programmes would integrate several components, including awareness raising, legislative reform, policy advice, capacity building of labour market institutions and law enforcement authorities, and employment-based rehabilitation measures. In programmes already under way, the ILO has worked with constituents to improve migration management, monitor recruitment for employment abroad and raise awareness. While this work will be continued, additional emphasis will be placed on linking anti-trafficking programmes to poverty reduction strategies and on national data management on trafficking. Increased attention will be given to prevention of trafficking and to the reintegration of adult victims through skills training, microfinance and job placement schemes, drawing on the expertise of various ILO departments.

423. For the period 2005-08, priority will be given to programmes in countries of Asia, Africa, eastern Europe and central Asia in which research has identified a high incidence of trafficking and where there is sufficient political will to tackle the problem. Ongoing subregional programmes will be consolidated during

this period. It is proposed that additional countries of origin, transit and destination will be included in response to requests by member States.

Special activities on prison labour and other state-imposed forced labour

424. Special activities on prison labour and other state-imposed forced labour will be developed and implemented in the light of the particular nature of existing problems, as well as any new ones that may emerge in the coming years.

425. On forced prison labour, further research should be conducted, as noted above, to improve understanding of the issues involved. Activities will include law and policy advice (particularly for developing countries); elaborating new guidelines for minimum standards of work in prisons to contribute to the wider process of developing international prison rules; training of prison administration and other government officials; and promotion of the application of labour law to prisons.

426. On state-imposed forced labour, the aim is to work with willing member States to overcome long-standing problems in this area. Activities are likely to include legislative reform and policy advice; awareness-raising and sensitization programmes; institutional capacity building; establishment of credible and effective redress mechanisms for victims; and pilot projects to demonstrate the viability of alternatives to the use of forced labour and the economic and social reintegration of former forced labourers.



427. ILO action against forced labour has steadily gathered momentum over the past four years. This has been mirrored by increased global awareness of the problem and greater willingness on the part of member States to confront it. A global alliance against forced labour must now be forged, backed by adequate resources and led by the ILO, to ensure that this gross violation of the rights of women, men, girls and boys across the world is finally relegated to history.

