PERSPECTIVES

The ILO's Special Action Programme to Combat Forced Labour*

In recent years, a start has been made by individual countries in harnessing efforts to implement their commitment to eradicate forced and bonded labour, slavery, and trafficking in persons. The ILO has also been addressing the issue of traditional and contemporary forms of forced labour and, in November 2001, the ILO's Governing Body created a Special Action Programme to Combat Forced Labour (SAP-FL) as part of the promotional activity under the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (ILO, 2001a). It was the first time that the ILO had established a programme to tackle the elimination of all forms of forced or compulsory labour, one of its foremost concerns, through both technical assistance and promotional means.¹ The programme became operational in early 2002, and at the time of writing had been in existence for just one year. A wide range of activities had been undertaken in most parts of the world and these were expected to intensify further in the course of 2003 and beyond, in view of the needs and the requests for assistance made by

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¹ The Forced Labour Convention, 1930 (No. 29), defines forced labour 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)). *Stopping forced labour*, the Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, attempted a typology of different forms of forced labour in the world today. These were: the continuing problem of slavery and abductions; compulsory participation in public works; forced labour in agriculture and remote rural areas, and coercive recruitment practices; domestic workers in forced labour related to trafficking in persons; and contemporary dilemmas of prison-linked forced labour (ILO, 2001b). The typology is only indicative. There can be overlaps between these categories, as for example between debt bondage and trafficking in persons. Moreover, additional forms of coercion at work may come to light, as more intensive research is undertaken at national and regional levels.

various ILO member States. The ILO's social partners and other collaborators in the international arena voiced their expectation that the ILO and its SAP-FL programme would now take a major role in combating the global scourge represented by forced labour and by trafficking for labour or sexual exploitation.

This "Perspective" sets out the Programme's overall approach, describes its main activities to date, and highlights the challenges it is preparing to meet in the immediate and longer terms.

Origin and mandate of the SAP-FL

The SAP-FL originated in the Director-General's Global Report under the Follow-up to the Declaration on Fundamental Principles and Rights at Work, *Stopping forced labour* (ILO, 2001b), and in the ensuing discussion by the International Labour Conference at its 89th Session in 2001. This Report proved to be of particular importance, with practical implications for the Organization, for several reasons.

First, it exploded the myth that forced labour was a minor and largely bygone problem, surviving only in isolated pockets in a few countries. It was argued persuasively that, on the contrary, forced labour is a very widespread and, in many regions, a growing problem (often linked to globalization), and one that needs to be broken down into its more "traditional" and more "modern" forms. Certain age-old problems do persist in particular areas, e.g. residual forms of slavery in parts of Africa, or of agrarian feudalism (including the more traditional forms of bonded labour) in Asia and Latin America. But they co-exist alongside new and equally unacceptable forms of forced labour. The clearest manifestation of these modern forms is trafficking in persons, whether for the purpose of their labour or sexual exploitation – a phenomenon which is growing alarmingly in all regions of the developing and industrialized worlds and in countries in transition, and which has provoked increasing public concern. In his first major public statement on trafficking, the ILO's Director-General described it as the "underside of globalization" (ILO, 2001b, p. 47).

Second, *Stopping forced labour* described the changing face of forced labour over time and up to the present, distinguishing between its economic, political and cultural aspects, and examining the nature and degree of state responsibility for the phenomenon. It set out the three main phases of concern about forced labour, which correspond broadly to the adoption of the ILO's two Conventions on forced labour,² and to the adoption of other international instruments on slavery-like

 $^{^2\,}$ Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105).

practices.³ In the early decades of the twentieth century (Convention No. 29 was adopted in 1930), the main concern was with the excesses of colonialism, in exacting forced labour for economic development purposes. In the inter-war period and during the Second World War, forced labour was used on a mass scale, and by the 1950s, serious problems, many of a political or ideological nature, were arising because of the forced labour exacted from millions of people consigned to labour camps for political reasons. The ILO adopted Convention No. 105, regarding forced labour for political and other specified purposes, in 1957.

In both these instruments, the underlying assumption was that, in the majority of instances, the State bore direct responsibility for exacting forced labour. Today, however, the State's involvement is likely to be less direct. There are clear exceptions, among these Myanmar.⁴ But in modern times, forced labour is mostly exacted by private individuals, for example feudal landlords, or trafficking agents who are themselves often linked with international organized crime networks. In this situation, the main duties of States and their law enforcement agencies are to enact appropriate legislation; to identify, release, rehabilitate and compensate the victims; to identify and sanction the users of forced labour; and to take action to prevent its future recurrence. As will be discussed below, this approach and understanding is of intrinsic importance in encouraging the member States of the ILO to cooperate with the SAP-FL. There will be little incentive for States to cooperate, for example, in research on the incidence of forced labour, if its detection can be a reason for holding them responsible for gross human rights abuse, and make them liable to the trade and other sanctions that might flow from this.

Third, by observing that forced labour had not really caught enough of the world's attention despite the clear need for action against it, *Stopping forced labour* implicitly criticized the past performance of national and international actors, including that of the ILO itself. The ILO had let issues such as rural poverty and discrimination, and the abusive tenure conditions suffered by rural workers and indigenous peoples slip off its agenda. It had addressed the problem of forced labour almost exclusively through its supervisory bodies for the application of Conventions and Recommendations, where treatment of the

³ The League of Nations' Slavery Convention, 1926; the United Nations' Supplementary Convention on the Abolition of Slavery, the Slave Trade and the Institutions and Practices Similar to Slavery, 1956.

⁴ The ILO has taken unprecedented action against the Government of Myanmar, under article 33 of the Constitution of the ILO. A resolution adopted by the International Labour Conference at its 88th Session in June 2000 allowed for a series of measures aimed at ensuring that the Government of Myanmar take concrete action to implement the recommendations of a Commission of Inquiry held in 1998 (ILO, 1998). This Commission had found that the obligation to suppress the use of forced labour was violated in that country in a "widespread and systematic manner" (ILO, 1998, para. 536).

issue was often largely a process of assertion and denial. There had been virtually no examples of practical action to address the structural factors giving rise to forced labour, or systematic surveys and studies of its nature and incidence.⁵

The follow-up to the ILO Declaration provided an ideal means to initiate a more positive and problem-solving approach to the elimination of forced labour (ILO, 2001a). The SAP-FL was created to do just this, and is entrusted with a challenging mandate. Its main tasks are to spearhead the ILO's activities against forced labour (including trafficking), giving them enhanced external visibility and also greater internal coherence. The Programme now has a core staff and funds for a first phase of activities, which include awareness raising, studies and surveys, workshops and publications/communications. Specific technical cooperation projects and activities have also attracted funds.

Awareness raising: An initial priority

In most parts of the world, a necessary first step was to raise awareness among government agencies, the ILO's social partners, human rights and development agencies, civil society, and public opinion generally, for the issues involved are not always easy to understand.

Basic approaches to awareness raising differed by country and region, depending in part on whether the main objective was to prepare the ground for ratification of Conventions Nos. 29 and 105, or rather to identify problems of their practical application in countries that had already ratified these Conventions.

In Latin America, for example, the ratification rate of Conventions Nos. 29 and 105 is high but, with the exception of Brazil, the issue had received limited public attention despite indications that there was a range of outstanding problems. Thus, a series of workshops organized jointly by the SAP-FL and the Latin American Social Sciences Faculty (FLACSO, Ecuador) served initially to provoke reflection among government officials, the social partners, other policy-makers and analysts, and human rights and development organizations, on the main problems of contemporary forced labour and on their root causes. These workshops were held in 2002 in Bolivia, Ecuador, Guatemala and Peru, with a deliberate focus on central American or Andean countries with a high proportion of indigenous peoples in their national populations.

⁵ Notable exceptions are work by the Social Finance Programme (SFP) that approached the problem of debt bondage from the perspective of microfinance as a key instrument in both prevention and rehabilitation of victims; and that by the International Programme on the Elimination of Child Labour (IPEC) tackling child bonded labour and the trafficking of children.

Taken together, the meetings identified a number of hitherto unexposed forced labour problems that should be a cause of serious concern in Latin America.

In Bolivia, particular concern was expressed about debt bondage and sub-human working conditions affecting indigenous migrants from the highlands in lowland commercial farms, coercive conditions in privatized mines, and abuse of compulsory military service. In Ecuador, concern was raised about the implications of large enterprises in certain sectors being under military ownership, perhaps beyond the scope of normal labour law. In Peru, participants pointed to the causal links between extreme poverty, discrimination, a loosening of labour laws, and new patterns of forced labour. There was consensus that sanctions alone would not succeed in eradicating forced labour, and that an integrated approach was called for, involving several state institutions. In Guatemala, particular concern was expressed about coercive conditions (including forced overtime) in assembly industries in exportprocessing zones (*maquiladoras*).

The workshops served to identify the issues and sectors that need more detailed investigation in the course of 2003. In the meantime, consideration is being given to the development of a major regional project to address forced labour, discrimination and participation by indigenous peoples in seasonal labour markets.

In south Asia, there has been longstanding concern with the problem of bonded labour and with the forced labour and child labour aspects of trafficking in the region as a whole. Initial workshops were organized in Mongolia and Viet Nam, and the Government of Viet Nam has announced its intention to amend certain laws, including those concerning public works, and has submitted requests for promotional materials and activities to secure the effective elimination of forced labour. In Mongolia, participants identified a number of concerns requiring more detailed assessment, including compulsory overtime, abuses of labour in prison settings, local public works, and forced labour as an administrative punishment. A study is currently under way.

In China, a first workshop on forced labour was held in Beijing, in January 2003. This marked the first step taken by the Government of China in respect of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (beyond fulfilling reporting requirements), and of forced labour in particular. The workshop's aim was to familiarize government officials and the social partners in China with ILO instruments on forced labour and the concepts involved, to disseminate information on the ILO's activities in this field, and to discuss future activities in China in this respect. It is hoped that this will mark the beginning of an important process, leading to the eventual ratification and application by China of Conventions Nos. 29 and 105. In south-east Asia, a workshop hosted jointly by the SAP-FL and Anti-Slavery International in February 2003 focused on another issue of widespread and growing concern: the plight of migrant domestic workers within and outside the region, many of whom are at risk of becoming victims of trafficking, and potentially also of forced labour.

To date, public concern with forced labour in Africa has focused on a limited number of countries known (or believed) to experience significant problems in this respect. In 2002, the issues of slavery, abduction and forced servitude, in the context of ongoing armed civil conflict in Sudan, were investigated by the International Eminent Persons Group, which made a number of recommendations (United States Department of State, 2002a). The Government of Sudan subsequently approached the SAP-FL for discussions intended to lead to further investigation of these problems and the implementation of action to address them. However, the problem is not limited to one or two countries: elsewhere, initial diagnosis is needed to uncover what subtle – or less subtle – forms of forced labour may exist, and their magnitude.

Surveys now under way in selected countries of West Africa are exploring forms of forced labour that may be linked to cultural practices (for example, work required of children in Koranic schools, compulsory labour exacted under traditional systems of governance or that associated with the internal or cross-border movement of children for domestic service), or to certain practices of the State (such as abusive use of labour in prison settings, certain forms of public service contract), or that are primarily emerging economic practices in, for example, commercial agriculture or sexual exploitation). Initial research and awareness raising in Niger led to a public commitment by the Association of Traditional Chiefs of Niger to combat slavery in that country, using the considerable authority that the chiefs command in the general population. Yet, in practice, the situation is complex. Long-standing relationships of dominance and dependency between different groups of the population have evolved over time in response to many factors, such that now the boundaries and relations between "slave" and "slaveholding" groups may be far from straightforward, making the identification of persisting forced labour arrangements a matter for careful further investigation.

Trafficking: High on public policy agendas

The form of forced labour believed to be most prevalent in Europe and North America is that linked to the trafficking of both women and men; in particular, the trafficking of women and children is often associated with their commercial sexual exploitation. The SAP-FL, through its awareness raising and research, is helping to redress the balance in popular perceptions which, thus far, tended to see trafficking as almost exclusively linked to sexual exploitation and, therefore, to involve primarily women and girls. It is now increasingly recognized that in industrialized economies, trafficking for labour exploitation in sectors such as construction, manufacturing, agriculture, domestic work and begging, is a serious issue demanding urgent attention. A broad interpretation of such trafficking would perceive many migrant workers (whether men, women or children) as potential victims of this form of trafficking, particularly the illegal migrants moved by recruiting and transporting agents across national borders. The key point here is that trafficking arises largely as a result of imbalances in labour demand and supply, which occur because obstacles are placed in the way of legal migration. Governments, moved perhaps by the wish to appease anti-immigration sentiments among their voters, can raise barriers to limit legal labour migration. But for all kinds of reasons demographic, wage rates and others - employers in the informal and also the formal economy may seek to employ illegal migrants. This may be because of serious labour shortages, as in seasonal agricultural activities such as fruit-picking. Or such employers may simply prefer to employ illegal migrants in order to depress wages and to take advantage of unprotected workers. In any event, a dangerous breeding ground for traffickers is thus created: when profits are high, and if the risks of detection and punishment are low, trafficking intermediaries can and do exploit these imbalances.

The link between illegal migration and the trafficking of persons is a sensitive one. Most governments tend to treat trafficked migrants as illegal migrants. As a result, they suffer on two counts: as illegal migrants and as the victims of duplicitous and exploitative traffickers. Other governments insist that no meaningful progress against trafficking can be made unless the links - and the distinctions - between illegal migration and the trafficking of persons are acknowledged. Overall, there does appear to be a shift towards a broader perception of trafficking, namely, as just one aspect of migration. This point was made in the most recent report of the US State Department's Office to Monitor and Combat Trafficking (United States Department of State, 2002b). It was also made in the Brussels Declaration on Preventing and Combating Trafficking in Human Beings, of the European Union and the International Organization for Migration, Sep. 2002 (European Commission, 2002). The trend can be seen in some domestic legislation or recent draft law in countries of western and eastern Europe. A broader perspective on trafficking and illegal migration means the problems can be addressed in a more comprehensive and integrated way: the approach is not a security-led one of "cracking down" on illegal migration, but one which seeks to tackle issues of labour supply and demand in origin, transit and destination countries, incorporating human rights considerations throughout the chain.

The SAP-FL is contributing to thinking and debate on these issues at an international level, through its participation in a large number of international forums, including the Organization for Security and Cooperation in Europe (OSCE), and the Stability Pact Task Force on Trafficking, among many others. In addition, it is undertaking research to understand better the root causes of vulnerability to trafficking in selected countries of origin, the demand factors in economic sectors considered as "niche markets" in destination countries, and the ways in which the two are linked through illegal networks. Primary research undertaken with partner organizations in origin countries (Albania, the Republic of Moldova, Romania and Ukraine) is already well under way, and that in transit and destination countries is beginning at the time of writing, building on a pilot study conducted in France.⁶

Research: Paving the way for action

The research described above is feeding into the development of a major regional integrated programme on forced labour and trafficking in Europe, through prevention, capacity building of various labour market institutions (including job placement agencies and labour inspectorates), victim identification and protection, and enforcement of the relevant legislation.

In similar vein, SAP-FL-sponsored research in another geographical and cultural setting - Pakistan - is informing the implementation of action against bonded labour, in partnership with the Ministry of Labour, Manpower and Overseas Pakistanis. In Pakistan, as in other south-Asian countries, the legal and policy framework for the abolition of bonded labour (the form of forced labour affecting the greatest number of victims across the world) is largely in place. Pakistan has ratified both the ILO's Conventions Nos. 29 and 105 and the United Nations Supplementary Convention on the Abolition of Slavery, of 1956, and the Constitution of Pakistan affirms that slavery and all forms of forced labour and traffic in human beings are prohibited. A landmark judgement by the Supreme Court in 1989 confirmed that bonded labour practices in brick-kilns were unconstitutional. In 1992, the Bonded Labour System (Abolition) Act was passed and rules for its implementation were issued in 1995. In April 2000, the Chief Executive announced a crackdown under the law on bonded labour, together with a government contribution of PK Rupees 100 million (equivalent to US\$1.74 million) to a Fund for the Education of Working Children and Rehabilitation of Bonded Labour. In September 2001, the Cabinet approved the National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers.

⁶ Research has started in Germany, Italy, Hungary, the Russian Federation and Turkey.

And yet, in Pakistan (and elsewhere in the subregion) bonded labour continues to defy effective abolition in practice. The Government has requested SAP-FL assistance in improving implementation of the Plan of Action. Initial research has shed light on the nature and incidence of bonded and other forced labour arrangements, not only in the traditional strongholds in share-cropping tenant agriculture and brickkilns, but also in lesser-known sectors of incidence such as mines, fisheries, carpet-weaving, various hazardous industries, and domestic work. The practice of peshgi (an advance of pay to the worker from the employer or middleman) remains very widespread. It is frequently abused to transform what might otherwise be a legitimate economic relationship into one of coercion and exploitation, involving falsification of accounts, the extraction of involuntary unpaid labour from family members (including children), restrictions on freedom of movement and on change of employment, and other constraints on personal freedom. Again, the situation is complex, tied to deep-rooted structural issues of poverty, inequality, landlessness and discrimination, and bonded labour manifests itself in various ways. In the absence of access to even basic systems of social security, notably by the vast majority of households working in agriculture and the informal economy, it is arguable that (restrictive though it may be) a bonded relationship to a relatively benign middleman, landlord or employer may afford a degree of social protection and security of income that would not be forthcoming through work on the casual labour market. Hence, the notion of the most acute forms of bonded labour is being explored in Pakistan forms which represent severe abuses of human rights and which demand immediate, priority action. These may include instances in which debt is handed down across generations, where children are bonded to repay their parents' debts, where work is of a particularly hazardous nature, or where violence or the threat of violence is used to keep workers against their will.

The research findings will help to refine government policy and action against bonded labour. Initial activities undertaken with SAP-FL support are likely to include awareness raising based on research findings, capacity building of law enforcement and judicial institutions, and integrated demonstration or pilot projects targeted at specific geographical areas and types of bonded labour. This represents the first phase of a larger proposed technical cooperation project intended to help the Ministry implement the Plan of Action, and involving support at all levels, from the macro-policy environment (including the integration of bonded labour concerns into poverty reduction strategies), through law reform and capacity building, to packages of local-level intervention (e.g. victim identification and support, employment creation, skills training, education for children, and microfinance services aimed at creating "bonded labour-free zones"). Naturally, workers' and employers' organizations have key roles to play, in recognition of the fact that both labour supply and demand factors must be addressed if effective, sustainable solutions are to be found. Ideally, such an approach would be replicated in other countries of the subregion affected by similar problems, as part of a broad initiative to tackle bonded labour, discrimination and poverty reduction.

Technical cooperation: Programmes of practical assistance to eradicate forced labour

One important incentive for member States to acknowledge actual or potential problems of forced labour, and request the ILO's assistance in uncovering and understanding them, is the prospect of subsequent technical assistance to rectify them, in the promotional spirit of the Declaration and its follow-up. Currently, the SAP-FL has three technical cooperation projects. In Brazil, a project aims to combat abusive recruitment practices leading to forced labour (primarily in agriculture), and to rehabilitate victims of these practices. The main thrust of the project is to strengthen and coordinate action by members of the Executive Group for the Abolition of Forced Labour (GERTRAF) and other key partners within and outside the Government, at federal, state and municipal levels. In particular, mobile inspection units charged with finding, releasing and rehabilitating forced labourers are receiving support. Although the project had been operational for only nine months at the time of writing, important results had already been achieved, including heightened national awareness, a media debate on the issue, and coordinated action by federal prosecutors, the police and the judiciary. Proposals for legislative reform were taken into account in a draft revision of the Penal Code, that contained a clearer definition of forced labour.

A project in Nepal jointly run by the SAP-FL and the International Programme on the Elimination of Child labour (IPEC) aims to achieve the effective and sustainable rehabilitation of households subject to bonded labour under the *kamaiya* system, which is prevalent in five western districts. This system, which maintained some 20,000 households in conditions of debt bondage and servitude, was outlawed through a decree in 2000 and the Kamaiya Labour Prohibition Act in 2001. With its main implementing partner, the Ministry of Land Reform and Management, and other partners at national and local levels, the project is developing activities designed to ensure that former *kamaiya* households can benefit in practice from the provisions of this legislation, by devising secure alternative livelihoods to prevent such households from falling back into bondage or other forms of exploitation. Despite constraints due to the ongoing insecurity in that country, the project has made progress on several fronts, including provision of schooling for former *kamaiya* children, income generation for adults, and overall awareness raising on related issues. Work with trade unions is shortly to start, through campaigns to organize agricultural workers in the districts affected, so that the workers are in a stronger position to demand at least the minimum wage for daily wage labour.

A third project, a joint undertaking with the Social Finance Programme in Tamil Nadu, India, uses an integrated approach to reduce bonded labour, working closely with the state government, social partners and NGOs. Initial work has served to clarify the main economic sectors and areas in which bonded labour persists. The project focuses on the development and use of microfinance services to prevent bonded labour, and the provision of informal education for children, and also on strengthening the capacity of vigilance committees to identify, release and rehabilitate the victims of bonded labour.

All of these projects are at an early stage, but each is generating valuable experience, which can subsequently be fed into the design of future technical cooperation projects.

Measuring forced labour: A daunting challenge

No estimate of the numbers of people affected by forced labour was provided in Stopping forced labour. It was seen as "not possible at this stage to give an accurate estimate of the numbers affected on a global scale; or to take into account in detail the diverse experiences of different categories as a basis for targeted action" (ILO, 2001b, pp. 4-5). There are several reasons for this. Forced labour, as explained, is increasingly exacted in the illicit, underground economy. This is an area that escapes national official statistics and in which research is difficult, perhaps even dangerous, as deliberate efforts to avoid detection may be made by both perpetrators and victims. Such estimates as do exist are subject to high margins of error and are based largely on limited surveys or on the opinions of experts working on particular aspects or categories of forced labour.⁷ Many forms of forced labour can be detected only through careful questioning of its victims and their exploiters: for example, the distinction between trafficking resulting in forced labour and smuggling of persons resulting in *labour exploitation* may be a very fine one. Use of proxy indicators is also problematic, as few clear correlations are yet known to exist between forced labour and more easily observable phenomena.

Forced labour is not distributed evenly across a country's territory or across economic sectors. It is likely to be clustered in distinct locations, and to be totally absent or very rare in large parts of a country. Forced labourers usually represent only a small proportion of the total

⁷ See, for example, IOM (2001); Bales (2002).

labour force, and the absolute numbers involved are also relatively low in most countries (with some notable exceptions). This situation complicates sampling procedures and renders problematic the addition of a forced labour module or questions on to other, regular national sample surveys.

The Director-General of the ILO has indicated that measurement of forced labour on a global scale must be given high priority for the preparation of the next Global Report on forced labour, to be published in 2005. National governments, the social partners and civil society need reliable data on the nature and extent of forced labour if they are to implement effective policies and programmes to combat it. The SAP-FL has the task of spearheading this work, in collaboration with others within and outside the ILO. Clearly, the various research activities outlined above will provide valuable input, but a more consolidated programme of work – using both primary and secondary data sources – needs to be put in place. The methodological challenge is huge, as are the potential resource requirements of undertaking thorough investigation of this highly sensitive topic. A first step was a meeting of experts (statisticians and others) in April 2003, to discuss the measurement question and decide in practical terms the best way forward.

Concluding remarks

Forced or compulsory labour is a complex and changing problem, and the effective elimination of all its forms a major and long-term challenge. But this task also represents an opportunity for the ILO, and for the international human rights and development communities as a whole: unless concerted action is taken to address the plight of millions of trafficked, bonded and forced labourers around the world, it will simply not be possible to eradicate poverty.

There are many signs that the world is ready for an integrated approach to the elimination of forced labour, whereby the ILO's normative approach is complemented with practical technical and financial assistance to member States. Increasingly, member States are using the various mechanisms open to them to request ILO assistance in investigating the problem and in developing appropriate solutions. The work of the SAP-FL is clearly at an early stage, but by continuing to raise global awareness and to mobilize the support of its many partners, the ILO is strongly positioned to bring about real and positive change in the lives of the world's forced labourers.

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