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Trade Unions, Forced Labour and Human Trafficking

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Abstract

This article examines the dilemmas facing trade unions seeking to engage on questions of forced labour and human trafficking. The International Labour Organization and elements of the international trade union movement have succeeded in getting forced labour on the policy agenda globally and within many national settings. However, trade unions have limited capacity to effect real change in relation to these issues because of limitations on their influence, determined largely by membership density and the limited number of sectors in which they are present, but also internal assessments of what constitutes 'core business'. As a consequence, while trade unions may advocate for legislative or policy change, partner with non-governmental organisations to deal with particular cases, or even engage directly with vulnerable populations, the integration of those populations into the day to day concerns of trade unions necessarily remains elusive—particularly in the global south, where forced labour is most prevalent.

Keywords: international labour standards, international trade union movement, human trafficking

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Introduction

For trade unions, the existence of forced labour (and consequently of trafficking in persons for the purpose of economic exploitation) is of moral and, in some cases, material concern. As institutional representatives of workers, trade unions have a mandate to oppose all forms of exploitation associated with employment, and forced labour constitutes a clear violation of labour rights. Materially, trade unions have an interest in ensuring that their members' wages and working conditions are not undercut. In the words of the International Trade Union Confederation (ITUC): 'if labour rights are undermined in one part of the world, this can impact on labour standards of workers everywhere. Fighting forced labour is therefore fundamental to protecting and improving working conditions for all'.[1] At the same time, trade unions have limited resources, which they may feel are better used to further what they understand to be the direct interests of their membership.

These competing imperatives result in complex responses to calls from the International Labour Organization (ILO) for trade unions to champion, and participate in, the eradication of forced labour. These responses are driven by unions' values and contextual pressures, along with their organisational obligations and constraints. It is therefore necessary when analysing trade union responses to consider the degree to which the issue of forced labour resonates at different scales within the labour movement; the conceptual and material resources trade unions bring to the table when attempting to combat forced labour; and the benefits, risks and opportunity costs of engaging with the issue.

Since the international agenda has been very much driven by the ILO and its primary trade union partner, the ITUC, it is necessary to examine the ways in which these organisations have defined the terrain. This article thus begins by examining the concept of forced labour and the various ways in which its boundaries—internal and external—are defined, and how these definitions are refracted through the ILO's agenda. It then turns to the pragmatic question of what defines the capacity of trade unions to act against forced labour, and the strategies developed by trade unions to do so. Finally, the article reflects on the benefits and risks for trade unions of choosing to engage with the

1 ITUC, 'How to Combat Forced Labour and Trafficking: Best practices manual for trade unions', ITUC, 2009, p. 9.

2 This article was produced as part of an Australian Research Council Future Fellowship project entitled 'Trade Unionism and Trade Union Aid in Indonesia, Malaysia and Timor-Leste' (FT120100778). It draws on an extensive review of documents produced by the ILO, the ITUC and the GUFs and in-depth, semi-structured interviews with staff in the head and regional

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issue of forced labour, concluding that there remains serious doubt that trade unions can have a substantive impact, particularly in the global south where forced labour is most prevalent.[2]

Defining the Terrain

The ILO Forced Labour Convention[3] 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'.[4] In 2005, this definition was refined, specifying three main categories of forced labour, namely (a) forced labour imposed by the state;[5] (b) forced labour imposed by private agents for commercial sexual exploitation; and (c) forced labour imposed by private agents for economic exploitation. The latter category includes bonded labour, forced domestic work, forced labour of migrants in non-domestic occupations, and work associated with slavery.[6] On the basis of this definition, the ILO estimates that some 20.9 million people experience forced labour globally, over half of whom can be found in the Asia-Pacific region.[7] The ILO estimates that 18.7 million (90%) of those experiencing exploitation are located in the private economy.[8]

The way that forced labour is defined is not merely a matter of semantics. It shapes both the assessments of the problem and the responses to it. Just as the current preoccupation with human trafficking has led to a tendency to conflate it with low-skilled labour migration,[9] many activists—and some scholars—define forced labour so broadly that it encompasses practices like compulsory overtime or the payment of low wages. While such practices are clearly exploitative, they do not constitute forced labour under the ILO definition, since the workers affected may choose to leave their place of employment.[10] Equally significant is the distinction made by the ILO itself between forced sexual labour and forced labour for 'economic exploitation', a distinction that has roots in long-standing debates about whether sex work should be considered work.[11] Another possible distinction, but one not drawn by the ILO in its 2005 typology, is that between forced labour in formal sector occupations (such as in the case of some irregular labour migrants working in factories on the Thai-Myanmar border) and the potential for forced labour in informal sector occupations, most notably in live-in domestic work. While not significant in any moral or necessarily even any experiential sense, this distinction is nonetheless extremely relevant when considering trade unions' responses to forced labour because of their traditionally stronger focus on organising workers in formal sector occupations.

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2 This article was produced as part of an Australian Research Council Future Fellowship project entitled 'Trade Unionism and Trade Union Aid in Indonesia, Malaysia and Timor-Leste' (FT120100778). It draws on an extensive review of documents produced by the ILO, the ITUC and the GUFs and in-depth, semi-structured interviews with staff in the head and regional offices of those organisations as well as with local trade unions in seven countries. Research was undertaken between 2005 and 2015 as part of two other Australian Research Council-funded projects, entitled 'From Migrant to Worker: New transnational responses to temporary labour migration in East and Southeast Asia' (DP0880081) and 'Scaling Global Labour: Global Union Federations in India and Indonesia' (DP130101650).

3 In full: ILO, *C029—Forced Labour Convention, 1930 (No. 29), Convention concerning Forced or Compulsory Labour*, 28 June 1930.

4 ILO, 'Stopping Forced Labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work', International Labour Office, 2001, pp. 9–10.

5 For a discussion of the ILO's attempts to deal with state-sponsored forced labour in Myanmar, see K Maclean, 'Lawfare and Impunity in Burma since the 2000 Ban on Forced Labour', *Asian Studies Review*, vol. 36, no. 2, 2012, pp. 189–206.

6 ILO, 'A Global Alliance Against Forced Labour: Global report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work', International Labour Office, 2005, p. 10. The ILO has made other attempts to better explain the nature of forced labour and its relationship with trafficking in persons. For example, to address the intersections between forced labour and trafficking, the ILO developed a 'forced labour continuum' in which it identified three categories of labour—trafficked victims of forced labour, non-trafficked victims of forced labour and successful migrants, see B Andrees and M N J van der Linden, 'Designing Trafficking Research from a Labour Market Perspective: The ILO experience', *International Migration*, vol. 43, no. 1–2, 2005, pp. 55–73.

7 ILO, 'A Global Alliance Against Forced Labour: Global report', pp. 1–2.

8 ILO, 'A Global Alliance Against Forced Labour and Trafficking in Persons: Key achievements of the ILO's Special Action Programme to Combat Forced Labour and Trafficking in Persons, 2001–2011', International Labour Office, 2012, p. 1.

9 For discussion on this, see M Ford et al.,'Labour Migration and Human Trafficking' in M Ford, L Lyons and W van Schendel (eds.), *Labour Migration and Human Trafficking in Southeast Asia: Critical perspectives,* Routledge, Abingdon, 2012, pp. 1–22.

10 See J Lerche, 'A Global Alliance Against Forced Labour: Unfree labour, neo-liberal globalization and the International Labour Organization', *Journal of Agrarian Change*, vol. 7, no. 4, 2007, pp. 425–452 for an argument for the recognition of a continuum of forced labour that moves beyond the binary of forced/unforced to recognise the role of economic compulsion—as opposed to the non-economic forms of compulsion built into the ILO definition—in forcing workers to enter forced labour arrangements in India.

11 M Ford, L Lyons and W van Schendel.

Engaging with the Issue

Internationally, the ILO has been the primary driver of the campaign against forced labour, with a history that stretches back to the organisation's formation in 1919.[12] In a renewed surge of interest almost a century later, the ILO released what it described as its first global report on forced labour in 2001. The report called for a concerted programme of international action to address contemporary manifestations of the problem.[13] In the same year, the ILO designated the elimination of forced labour as one of nineteen outcomes to be achieved in its 2010–2015 Strategic Policy Framework. To achieve this, it set up a Special Action Programme to Combat Forced Labour (SAP-FL). A second report, issued in 2005, proposed a four-year action plan[14] that focused on the need for increased labour market regulation; better legislation and law enforcement; focused programmes involving government, employers and unions, and 'other national and international partners'; as well as efforts to ensure that such programmes attract media coverage. Key to this strategy were plans to establish a Global Alliance Against Forced Labour, comprised of employers, unions, academics and civil society organisations, as well as different parts of the UN system and other international bodies and networks. The ILO subsequently adopted a new protocol to the Forced Labour Convention in June 2014, which included new measures, among them ensuring the coverage and enforcement of legislation relevant to the prevention of forced labour applies to all workers and all sectors of the economy, and strengthening labour inspection services. It also emphasised the presence of modern forms of forced labour in the private economy, which had been previously subordinated to discussions of state-sanctioned compulsory labour. Lastly, it made recommendations in regard to the particular vulnerability of migrant workers.[15]

The ILO had engaged with business in a limited way on the issue of forced labour through the United Nations (UN) system's business partnership agreement, known as the Global Compact, which offers information on how to run a commercial or agricultural business in a way that avoids the emergence of debt bondage.[16] But, as part of its 2005 initiative, the ILO sought to engage more broadly, primarily through the International Organisation of Employers (IOE) and its network of national business federations. In 2008, the ILO released a 'Handbook for Employers and Business' and a document entitled 'Ten Principles for Business Leaders to Combat Forced Labour and Trafficking', the content of which was reflected in the IOE's first position paper on forced labour, released in 2010.[17] This, along with workshops for employers, resulted in national business federations in several countries adopting codes of conduct with guidelines to prevent and eliminate forced labour practices.[18] This expanded work with employers built on attempts to engage with trade unions around the issue of forced labour. In training material developed for the Global Alliance Against Forced Labour, the ILO identified a number of possible union strategies including public policy, industrial, political and solidarity initiatives.[19]

The ITUC formally came on board in 2007, when it co-founded the Global Trade Union Alliance to Combat Forced Labour and Human Trafficking with the ILO's Bureau of Workers Activities (ACTRAV) and SAP-FL.[20] The ITUC's decision to act in a more concerted way on the issue was very much driven by the ILO's 2005 announcement of its four-year action plan.[21] Its first step was to conduct a survey, which revealed that some trade unions were involved in work on forced labour. However, it also 'confirmed that much remained to be done to ensure that the full extent and nature of forced labour and trafficking, and the wide variety of forms in which they occur, are fully understood and combated by the global trade union movement'.[22] This survey preceded meetings in Kuala Lumpur, Malaysia, and Turin, Italy, in late 2007, which brought together affiliates and regional organisations,

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12 For a history of the ILO's engagement with the issue, see D R Maul, 'The International Labour Organization and the Struggle Against Forced Labour from 1919 to the Present', *Labor History*, vol. 48, no. 4, 2007, pp. 477–500.

13 ILO, 'Stopping Forced Labour', pp. 1–124.

14 ILO, 'A Global Alliance Against Forced Labour: Global report', p. 82.

15 ILO, *Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29)*, 28 May–12 June 2014.

16 ILO, 'Stopping Forced Labour', pp. 86.

17 IOE, 'IOE Guide on Forced Labour: Why it is an issue for employers', IOE, 2010.

18 ILO, 'A Global Alliance Against Forced Labour and Trafficking in Persons', p. 6.

19 International Training Centre of the ILO, 'Training Materials for a Global Alliance Against Forced Labour', International Training Centre of the ILO, Turin, 2006.

20 ITUC, 'How to Combat Forced Labour and Trafficking', p. 9. Note that the ITUC no longer coordinates the Global Trade Union Alliance, although it still maintains a project on forced labour and trafficking. The last Global Trade Union Alliance newsletter, 'Emancipate', was published in 2010.

21 ITUC, 'Circular No. 24 (2007) Forced Labour and Trafficking Survey', ITUC, 2007, p. 1, retrieved 9 April 2015, http://www.ituc-csi.org/IMG/pdf/No_24_forced_Labour_and_Trafficking_Survey.pdf

22 ITUC, 'Circular No. 3 (2008) Towards a Global Trade Union Alliance Against Forced Labour and Trafficking', ITUC, 2008, p. 1, retrieved 9 April 2015, http://www.ituc-csi.org/IMG/pdf/No_03_-_Forced_Labour_and_Trafficking.pdf

the Global Union Federations (GUFs) and the ILO Bureau for Workers' Activities. The action points endorsed included efforts to:

- promote relevant ILO Conventions;
- raise awareness of the issue among trade union members and officials and the wider public;
- address forced labour and trafficking issues in bipartite and tripartite negotiations and agreements;
- encourage trade unions to devote resources to the development of policies against forced labour;
- monitor employment agencies and companies and their supply chains to detect and combat forced labour and trafficking practices;
- identify, document and expose cases of forced labour;
- establish bilateral, sectoral or regional trade union cooperation agreements, and appropriate alliances or coalitions with civil society organisations;
- cooperate with labour inspection services, law enforcement and other relevant national, regional or international authorities or interagency working groups;
- engage in outreach and direct support to informal, unprotected and migrant workers at risk, to address their specific situation and needs, including through their integration in trade union ranks;
- ensure that proper attention is paid to all aspects of racism and discrimination, including in particular its gender dimension, as women and girls are especially at risk; and
- work closely with GUFs to target sectors where forced labour and trafficking are most likely to occur.[23]

These strategies can be more or less easily assigned to one or more of the four categories identified by the ILO in 2006. Examples of public policy initiatives include strategies like promoting ILO conventions, awareness raising with officials and the wider public, and encouraging reform. Monitoring employment agencies and supply chain practices, and cooperating with labour inspection services, law enforcement and other relevant authorities are examples of what the ILO calls political initiatives. Alliance and coalition formation, as well as collaboration with the GUFs to establish internationally recognised union membership are solidarity initiatives, as is outreach work, for example to migrant workers. Instances where outreach work involves unionisation, or where forced labour and trafficking issues are addressed in bipartite and tripartite negotiations, meanwhile, are examples of industrial initiatives.

While the ILO and the ITUC took the lead on policy, a key group of players in the solidarity, political and industrial spaces have been the GUFs, which represent unions in particular sectors at the international level. The GUFs are well-placed to engage not only because of the global scale of forced labour practices and trafficking for economic purposes, but also because of its often transnational character as a consequence of supply chains and the increasing prevalence of international labour migration. 'From Catcher to Counter', a joint campaign by the International Transport Federation (ITF) and the International Union of Food Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), demonstrates the multiscalar potential for action. The campaign, which is primarily focused on illegal fishing and lack of regulation in the sector, now works on issues of trafficking and forced labour. For example, it created a media exposé of slave labour in the Thai prawning industry, which criticised the Thai government for voting against the new ILO protocol to fight forced labour. The campaign also backed the Norwegian retailer, Ica, in its decision to remove scampi products linked to companies involved in human trafficking.[24]

'From Catcher to Counter' is an example of what the ILO has described as a political initiative. Other examples involving the ITF include its 2006 World Cup campaign to raise awareness among spectators about trafficking[25] and collaboration between ITF and Interpol after ITF inspectors in Cape Town found seventy-four Indonesian fishers kept on Taiwanese vessels abandoned in South Africa with no wages.[26] Another campaign that falls into the category of political initiative, but is also a solidarity initiative, is the 2001 Cocoa Protocol, which was formulated by the cocoa industry, trade unions and human rights organisations. The Protocol set out a framework to address forced labour including research into labour conditions, a verification system to ensure production of the cocoa products isfree from forced labour, and the establishment of the International Cocoa Initiative (ICI), the Board of

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23 ITUC,'Towards a Global Trade Union Alliance Against Forced Labour and Trafficking'.

24 ITF, 'ITF-IUF Press Release: Unions welcome Thai fisher slavery exposé', 2014, retrieved 21 July 2015, http://www.itfglobal.org/en/news-events/press-releases/2014/june/itf-iuf-press-release-unions-welcome-thai-fisher-slavery-exposé/

25 J Beirnaert, 'A Trade Union Perspective on Combating Trafficking and Forced Labour in Europe' in C Rijken (ed.), *Combating Trafficking in Human Beings for Labour Exploitation,* Wolf Legal Publishers, Nijmegen, 2011, p. 471.

26 ITF, 'ITF Reports Crewing Agents to Interpol for Suspected Human Trafficking', ITF, 2014, retrieved 13 April 2015, http://www.itfglobal.org/en/news-events/news/2014/may/itf-reports-crewing-agents-to-interpol-for-suspected-human-trafficking/

which initially included representatives of the ITUC and the IUF.[27] IUF is, however, no longer party to the initiative, and Education International, which subsequently became involved, has focused on providing vocational training for unqualified teachers working in the coca plantation zones, not on forced labour.[28]

In the industrial sphere, meanwhile, one of the chief mechanisms for engagement with the issue of forced labour has been through Global Framework Agreements (GFAs, previously referred to as International Framework Agreements). Even before the ILO's 2005 initiative, the majority of GFAs addressed the issue of forced labour. As of December 2002, forced labour was mentioned in seventeen of the twenty GFAs that had been signed at that time.[29] The focus on forced labour was maintained in more recent agreements, with fifty-three of the fifty-nine GFAs signed as of May 2008 including a prohibition on forced labour.[30] In one example, a GFA signed between the International Textile, Garment and Leather Workers' Federation (ITGLWF) and Inditex, a global retailer based in Spain, prevented suppliers from sub-contracting without prior written consent from Inditex. The agreement prohibited forced labour, requiring that suppliers must not extract any kind of 'deposit' from workers nor retain their identity papers. Monitoring was to be conducted jointly by Inditex and the GUF.[31] It is difficult to see how these kinds of references to forced labour are anything more than formulaic given that forced labour and human trafficking for economic exploitation are relatively unlikely to occur in the formal economy, of which Inditex's suppliers are part.

In another example, UNI Global Union signed a Memorandum of Understanding with the International Confederation of Private Employment Agencies (CIETT), which covers temporary agency work industry globally in 2008. The agreement included a commitment to decent working and employment conditions, and an undertaking to promote the ratification of ILO Convention No. 181[32] and to collaborate with key stakeholders to work towards eliminating human trafficking.[33] According to CIETT's Managing Director, the agreement would 'help to promote quality standards within the industry, prevent unfair competition by fraudulent agencies and/or user companies and fight human trafficking'.[34] Agency work is highly unregulated, particularly where it pertains to informal sector occupations such as construction, agricultural and domestic work. As a consequence, workers are vulnerable to exploitation.[35] The real question, though, is the extent to which such an agreement reaches the workers in those sectors who are most likely to be subjected to forced labour.

A second type of GUF-driven industrial strategy, which illustrates the limitations faced by unions due to the interests of union members and the structure of the economy, involves organising drives in a particular multinational. As an example, Nestlé's own corporate business principles, created unilaterally, draw on the UN Global Compact's four guiding principles on labour, the fourth of which concerns the elimination of all forms of forced and compulsory labour.[36] Although the IUF has had success in increasing union density, the campaign focuses on the concerns of local affiliates with subcontracting and casualisation.[37] Despite the fact that forced labour has been a major concern for non-governmental organisation (NGO)-led campaigns against Nestlé, the IUF has had little to say on the issue because the practice is found predominantly among cocoa harvesters rather than in factories where cocoa is processed.

Regional trade union federations have also recognised the often multiscalar nature of forced labour in the contemporary world, most evidently through processes of migration. The European Trade Union Confederation (ETUC), for example, has targeted European Union (EU) migration policy in relation to forced labour and

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27 ITUC, 'How to Combat Forced Labour and Trafficking', p. 33.

28 Education International, 'We Help Deprived Communities Help Themselves', Education International, 2012, retrieved 9 April 2015, http://download.ei-ie.org/SiteDirectory/ChildLabourEditorialGroup/Doc/Interview_ghana_eng.pdf

29 ILO, 'Global Labour Agreements: A framework for rights', *The World of Work: The Magazine of the ILO*, no. 45, 2002, p. 7.

30 P Wilke and K Schütze, 'Background Paper on International Framework Agreements for a Meeting of the Restructuring Forum Devoted to Transnational Agreements at Company Level', Hamburg, 2008, p. 7.

31 J Beirnaert, p. 491; ITUC, 'How to Combat Forced Labour and Trafficking', p. 33.

32 In full: ILO, *C181—Private Employment Agencies Convention, 1997 (No. 181) Convention concerning Private Employment Agencies*, 19 June 1997.

33 ITUC, 'How to Combat Forced Labour and Trafficking', p. 32.

34 D Pennel cited in UNI Global Union and CIETT, 'UNI Global Union and CIETT Corporate Members Launch Global Dialogue on Temporary Agency Work', UNI Global Union and CIETT, 2008, retrieved 10 April 2015, http://www.ciett.org/fileadmin/templates/ciett/docs/Press_release_UNI_Ciett_CMC_on_MoU_12-11-08.pdf

35 ILO, 'Background Note: Regulating private employment agencies', Regional Tripartite Conference on ILO Convention No. 189: Raising awareness and sharing knowledge on decent work for domestic workers Cairo-Egypt, ILO, 2012, retrieved 10 April 2015, http://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/genericdocument/wcms_210535.pdf

36 S Rüb, 'Development of the Global Trade Union Network within the Nestlé Corporation: Can trade unions square up to the power of transnational companies?', Friedrich-Ebert-Stiftung, Bonn, 2004, pp. 33–34.

37 P Garver, K Buketov, H Chong and B S Martinez, 'Global Labor Organizing in Theory and Practice', *Labor Studies Journal,* vol. 32, no. 3, 2007, pp. 237–256.

trafficking in persons, most actively through political and policy initiatives. For example, in 2007 it released a joint statement with the Platform for International Cooperation on Undocumented Migrants (PICUM) and SOLIDAR (formerly International Workers Aid) in response to a proposal of the EU for sanctions for employers who employ 'illegally present third-country nationals'. The statement pointed out the ineffectiveness of the proposed sanctions when a framework of rights for migrant workers had not been established and urged the EU to adopt a stronger framework with all relevant international instruments issued by the UN, ILO and the Council of Europe to ensure the rights of undocumented workers.[38] The ETUC again criticised the EU in 2009 when sanctions against employers of irregular migrants were introduced, arguing that the sanctions encouraged longer chains of sub-contracting, and that the move was 'yet another signal that the EU prioritises repressive migration policy over clear policies against labour exploitation'.[39]

Although regional trade union federations are less prominent in other regions, similar initiatives have been undertaken by the ASEAN Trade Union Council (ATUC), which represents eighteen national trade union federations in nine of the ten ASEAN states. ATUC lobbies governments in the region to respect the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, adopted at the Twelfth ASEAN Summit in Cebu, Philippines, in 2007. It has also been active in lobbying for better jobs for migrant workers in the context of the development of the ASEAN Economic Community. At the Seventh ASEAN Forum of Migrant Labour in Myanmar in 2014, ATUC affiliates identified standard employment contracts; pre-employment, pre-departure, post-arrival and reintegration programmes; migrant workers' membership in unions; the establishment and strengthening of Migrant Resource Centres; and capacity building for migrant labour focal points in affiliates, and implementation of the ATUC interunion agreement as priorities.[40]

A third scale at which these initiatives have been important is the national scale. Trade unions in some European countries have pushed for legislation change so that all construction workers, including migrant workers, are to be covered by labour regulations, thus reducing the possibility of forced labour practices.[41] In Spain, since 2010 the General Workers Union (Unión General de Trabajadores, UGT) has run a campaign entitled 'For Decent Work, Against Labour Exploitation', which has combined political and industrial initiatives. As part of this campaign, the UGT sought to establish a partnership with the General Council of the Judiciary, the State's Public Prosecutor's Office, the Ministry of Labour and Immigration and the Home Office. This would be accompanied by a protocol of action that trade unions and industry could sign on to, and that would facilitate the signing of collective agreementson the issue of forced labour. The UGT also supported the reform of laws relating to the crime of human trafficking and the rights and freedoms of foreigners.[42] In another example, in the United Kingdom (UK), the Trades Union Congress (TUC) and UNITE persuaded the government to introduce renewable one-year visas for domestic workers, which gave them the right to change employers without losing their visa status.[43]

In another example from the UK, the British Transport and General Workers Union (TGWU) campaigned in conjunction with other organisations for greater regulation of the gangmasters who recruit temporary workers for agricultural work, many of which are known to have ties to smuggling and trafficking rings.[44] The government subsequently passed the Gangmasters (Licensing) Act 2004, which resulted in the establishment of a register to enable greater monitoring, and the requirement that gangmasters renew their licences every two years. A later review of the efficacy of the Act found that it had been to some measure effective in tackling exploitation, though nevertheless limited by its narrow sectoral focus and a low prosecution rate.[45]

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38 ETUC, PICUM and SOLIDAR, 'Joint Comments of ETUC, PICUM and SOLIDAR on Expected Commission Proposals to Fight "Illegal" Employment and Exploitative Working Conditions', 2007, retrieved 21 July 2015, http://picum.org/picum.org/uploads/file_/joint_comments_ETUC_PICUM_SOLIDAR_2604507_EN_final.pdf

39 ETUC, 'Sanctions Against Employers of Irregular Migrants: ETUC deplores a toothless and counterproductive instrument', 2009, retreived 13 April 2015, http://www.etuc.org/press/sanctions-against-employers-irregular-migrants-etuc-deplores-toothless-and-counterproductive#.VMhO72iUenc

40 ATUC, 'Accelerating Actions to Implement the ATUC Inter-Union Cooperation Agreement Among ASEAN Unions As Strategy To Promote Decent Work and to Implement Recommendations of the 7th ASEAN Forum On Migrant Labor (AFML)', 2014, retrieved 13 April 2015, http://aseantuc.org/wp-content/uploads/2011/07/ATUC-Statement-ACCELERATING-ACTIONS-TO-IMPLEMENT-inter-union-agreement-and-7th-AFML-recommendation-rev-5.pdf

41 ILO, 'A Global Alliance Against Forced Labour and Trafficking in Persons', p. 53.

42 UGT, 'For Decent Work Against Labour Exploitation', 2010, retrieved 13 April 2015,http://www.ituc-csi.org/IMG/pdf/UGT_Anti-Trafficking_Campaign_EN.pdf

43 ITUC, 'How to Combat Forced Labour and Trafficking', pp. 17–19.

44 V Schmidt, 'Temporary Migrant Workers: Organizing and protection strategies by trade unions' in C Kuptsch (ed.), *Merchants of Labour*, ILO, Geneva, 2006, pp. 192–193.

45 M Wilkinson, G Craig, A Gaus, 'Forced Labour in the UK and the Gangmasters Licensing Authority', The Wilberforce Institute for the Study of Slavery and Emancipation, University of Hull, 2010, pp. 14, 39.

A different type of approach at the national and sub-national scale involves a firmer focus on industrial initiatives. The ITUC recognised that the issue of forced labour intersected with work already being carried out by trade unions, particularly with regard to engagement with non-traditional constituencies, including informal sector workers and migrant workers.[46] It is important, however, to distinguish between forms of outreach work—such as partnering with NGOs to deal with particular cases or to advocate for legislative change, working directly with vulnerable populations to provide information about their labour rights, or even helping them to set up a cooperative or association—and the integration of non-traditional constituencies vulnerable to forced labour into the 'core' union business of collective engagement within the industrial relations system. It is the latter that constitutes an industrial initiative as described by the ILO.

There are two primary models of unionisation of groups that are vulnerable to forced labour. The first is to recruit them into existing trade unions and to protect their interests through standard collective bargaining processes and other mechanisms available to members of those trade unions. Such a model is possible primarily in unionised sectors with a predominance of formal sector labour, or in particular semi-formal sector occupations like construction where trade unions are most likely to be found. Examples of this include the Union of Employers of Port Ancillary Services (IEPAS), a Malaysian trade union that has proactively recruited temporary migrant workers in recognition of the fact that the union would no longer be viable if migrant workers, which made up the vast majority of blue-collar port workers, were ignored.[47]

The second model involves encouraging the unionisation of vulnerable populations through a strategy that bears some similarities with the model of 'separate organising' adopted by women workers in some contexts,[48] or supporting such unions where they have emerged independently. One such example of this occurred in Greece in 2008, where 1,500 self-organised foreign agricultural workers, some of whom were working in a situation of forced labour, took strike action, which from the second day of the strike was supported by established unions.[49] In another example, the Hong Kong Confederation of Trade Unions (HKCTU) accepted into its ranks unions of self-organised foreign domestic workers and migrant construction workers. Industrial initiatives at these national and sub-national scales intersect with international industrial initiatives through the work of GUFs, such as the Building and Wood Workers' International (BWI) and UNI Global Union, and the IUF, which have actively promoted cross-border union membership in efforts to bring migrant workers, including those at risk of forced labour, into destination country unions.[50]

Potential to Achieve Change

The labour movement's capacity to achieve change in relation to the issue of forced labour is seriously limited by trade union density, coverage and interests, as Carstensen and McGrath have observed citing the 2005 Brazilian National Pact to Eradicate Slave Labour.[51] In 2003, Brazil's federal government, supported by the ILO, established a National Commission to Eradicate Slave Labour and National Plans for the Eradication of Forced Labour. As part of this initiative, the Ministry of Labour and Employment began publishing a 'Dirty List' of firms and individuals found to be using slave labour. Enterprises and organisations can sign up to the pact, committing to not collaborate with companies and individuals appearing on that list. According to Carstensen and McGrath, the efficacy of this approach was limited, since buyers can find suppliers not yet subject to labour inspections and some companies have obtained injunctions to prevent their names from being on the list. In the process, the risk of slave labour becomes isolated from the wider landscape of labour rights and does not necessarily strengthen the bargaining power of workers or unions.

Carstensen and McGrath go on to argue that strategies such as these are in fact most relevant where trade unions are weak or non-existent. This reflects the fact that trade union strength, but also density, are limiting factors particularly when it comes to trade unions' capacity to implement industrial initiatives against forced labour. Trade union density

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46 ITUC, 'ITUC Strategy to Build a Workers' Alliance to Combat Forced Labour and Trafficking', ITUC, 2007, retrieved 13 April 2015, http://www.ituc-csi.org/IMG/pdf/D2S4_ITUC_Action_Plan_to_Combat_Forced_Labour_and_Trafficking.pdf

47 M Ford, 'The Global Union Federations and Temporary Labour Migration in Malaysia', *Journal of Industrial Relations*, vol. 55, no. 2, 2013, pp. 260–276.

48 K Broadbent and M Ford, 'Women and Labour Organizing in Asia' in K Broadbent and M Ford (eds.), *Women and Labour Organizing in Asia: Diversity, autonomy and activism,* Routledge, London and New York, 2008.

49 M Papantoniou-Frangouli, 'Trafficking for Labour in Greece', Churches Commission for Migrants in Europe, Athens, 2011, pp. 32–33.

50 J Beirnaert, p. 485.

51 L Carstensen and S McGrath, 'The National Pact to Eradicate Slave Labour in Brazil: A useful tool for unions?', *Global Labour Column*, vol. 117, 2012.

has implications for the effectiveness of IFAs since, without intensive monitoring by local trade unions, companies have little incentive to comply.[52] It also limits the reach and effectiveness of locally driven initiatives. To complicate matters further, forced labour is often concentrated in sectors that are difficult to organise and might not be of strategic importance to unions, such as domestic work, sex work or agriculture. It is difficult and resource-intensive to organise or even engage with these sectors[53] because the workers are often employed in small-scale workplaces or, in the case of domestic workers, in the homes of employers, and are therefore difficult to recruit. Even where forced labour does occur in a relatively highly unionised sector, trade unions have traditionally been reluctant to devote resources to it, except where it has a direct effect on their members' interests, as in the case of migrant workers. In both cases, workers in such vulnerable situations may also be reluctant to be recruited, especially in situations where foreign workers are involved. This could be for various reasons including fear of detection in the case of foreign workers without a work permit, or loss of labour rights in the case of foreign workers on a limited-purpose visa.

While less directly dependent on trade union presence within a particular workplace or industry, political and solidarity initiatives also bring their own challenges. As evidenced in the examples presented earlier, trade unions can successfully lobby for legislative or policy change on forced labour. They can also work with law enforcement agencies or NGOs to identify cases of forced labour. However, their capacity to succeed in any national setting depends on a constellation of variables including the strength of the union movement, its relationship with government, and the openness of government to engage. Solidarity initiatives, meanwhile, depend on trade unions having sufficient resources—financial and other—to engage with NGOs or other parties. Remediating individual cases of forced labour is particularly resource-intensive, and often controversial, especially in contexts where trade unions have difficulty servicing the needs of their core membership. As noted in a study conducted for the TUC in the UK, barriers to union engagement at the grassroots level include the reluctance of those subjected to forced labour or trafficking to approach a union; the absence of enforcement powers to allow unions to take action; and a lack of funding for unions to deal with the issue.[54] In many cases, trade unions may experience pushback from members resentful of the expenditure of union funds on such initiatives.[55]

The efficacy of policy work conducted directly by regional trade unions or through the ILO is subject to similar caveats. High-level policy engagement can be in many cases productive, particularly in terms of entrenching issues like forced labour in the discourse of labour rights. In the right circumstances, international pressure can encourage governments to initiate change, as evidenced by the fact that some governments have agreed to work with the ILO on efforts to reduce forced labour and trafficking. However, many governments have little or no interest in engaging on this issue. While states that are signatories to the Forced Labour Convention are obliged to protect people against forced labour, governments often unwilling to acknowledge occurrence of forced labour in their jurisdiction,[56] in some cases because of links to industries that rely on forced labour,[57] in others because detection could lead to the state being held responsible for human rights abuses.[58] In such cases, trade unions and their international allies may well continue to push for change. Their capacity to achieve it, however, is another matter.

Conclusion: Benefits and risks

Insofar as trade unions do have capacity to contribute to efforts to eradicate forced labour, it is incumbent on their leadership to assess the risks and benefits of doing so. But even in situations where there is little or no external threat associated with campaigning on forced labour, trade unions that choose to engage with the issue may have difficulty convincing the union membership that campaigns they see as being peripheral to their core interests

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52 For discussions of the strengths and weaknesses of IFAs see, for example M Fichter, M Helfen and J Sydow, 'Regulating Labor Relations in Global Production Networks: Insights on International Framework Agreements', *Internationale Politik und Gesellschaf*, issue 2, 2011.

53 ITUC, 'Mauritania-Senegal: Defending the rights of migrants', *Union View*, no. 16, 2009; A Tate, 'Trafficking: A trade union and global perspective', *Frontline*, vol. 15, 2007.

54 B Anderson and B Rogaly, 'Forced Labour and Migration to the UK', Centre on Migration, Policy and Society (Oxford University) and Trade Union Congress, 2005.

55 The Executive Director of the HKCTU, Elizabeth Tang, describes instances in the mid-1990s when its offices were fireballed and covered with graffiti by members unhappy with the use of union resources to help foreigners, see S Grumiau, 'Spotlight Interview with Elizabeth Tang (HKCTU-Hong Kong)', ITUC, 2010, retrieved 13 April 2015, http://www.ituc-csi.org/spotlight-interview-with-elizabeth

56 A Tate.

57 B Rogaly, 'Migrant Workers in the ILO's Global Alliance Against Forced Labour Report: A critical appraisal', *Third World Quarterly*, vol. 29, no. 7, 2008.

58 R Plant and C O'Reilly, 'Perspectives: The ILO's Special Action Programme to Combat Forced Labour', *International Labour Review*, vol. 142, no. 1, 2003.

should be allowed to eat up scarce resources.[59] There is also the risk of exacerbating the situation. In contexts where foreign workers are of greatest risk of being subjected to forced labour, trade unions may—consciously or inadvertently—argue for stricter regulation of migration, which may in turn expose irregular migrants to a higher risk of labour exploitation by forcing migrants to work in situations where they have even less chance of protection under the law.[60]

Recognising these risks, the ITUC encouraged unions to act strategically in ways that complement and reinforce already existing priority areas, noting that: 'campaigns to unionise more workers, enforce labour legislation, increase employment opportunities or combat discrimination in the work place [sic] can all be effective tools in the elimination of forced labour'.[61] In contexts where trade unions are strong, forced labour is less prevalent as a consequence of these kinds of synergies. Conscious inclusion of efforts to reduce forced labour as an element of industrial initiatives could bring further benefit in such contexts by stretching unions' repertoires of action in ways that position them to better deal with an increasingly flexible labour market. However, for the reasons discussed above, this strategy is likely to have little impact on the occurrence of forced labour in the contexts in which it is most prevalent as a consequence of the limits that trade union strength and density place on their capacity to act.

In sum, the forms of engagement that labour movement organisations choose, their capacity to engage effectively—not to mention their willingness to engage at all—depends greatly on their exposure to the issue of forced labour and their position within the complex web that is the international labour movement. For local trade unions, however, it also depends upon their relative capacity to deal with issues seen to be largely external to their core concerns. At the broad level of policy, the international labour movement, in concert with the ILO, has shown itself to be prepared to embrace forced labour as an issue. At the national and grassroots level, there have been some efforts to reach out to workers at risk of trafficking or forced labour, but these are limited almost completely to the global north.

In the global south, where trade unionism is generally more fragile, initiatives have been largely undertaken at the behest of international institutions, and in many cases involvement is limited to participation in workshops or projects run in conjunction with the ITUC or ILO. Examples of such cases include initiatives through the ILO's Greater Mekong Sub-regional Project to Combat Trafficking in Children and Women, such as a workshop co-hosted by the Vietnam General Confederation of Labour (VGCL) to train its members on issues of human trafficking.[62] More extensive programmes have been developed by some unions, like the General Federation of Nepalese Trade Unions (GEFONT), which works in conjunction with the ITUC and BWI on trafficking and migration. As part of this work, GEFONT has organised trainings on forced labour and trafficking for domestic workers and collaborated with trade unions in destination countries such as Malaysia.[63] However, forced labour remains a peripheral issue for most local unions.

As this suggests, the ITUC's optimistic assertion that efforts to reduce forced labour can be incorporated into trade unions' existing work belies the fact that unions' willingness and capacity to address it may be severely limited, even where forced labour occurs in sectors with a union presence. More fundamentally, it ignores the fact that the limits of trade union reach beyond the confines of what is in global southern contexts a very small formal sector, even where unions enter into alliances with government agencies or NGOs. Thus, while the ILO and elements of the international labour movement have had considerable success in getting forced labour on the policy agenda, beyond isolated examples there remains serious doubt that trade unions can have a substantive impact on the prevalence of forced labour through political, solidarity or even industrial initiatives, particularly in the global south.

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59 In situations where governments themselves are engaged in forced labour, or have close links to those who are, attempts to oppose it could not only deplete trade unions' capacity to influence policy on other issues, but may even endanger their very existence.

60 M Ford, L Lyons and W van Schendel, p. 1.

61 ITUC, 'How to Combat Forced Labour and Trafficking', p. 9.

62 ILO, 'Trade Unions Against Trafficking', ILO, retrieved 10 April 2015, http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_099891.pdf

63 J Beirnaert, 'Training on Human Trafficking and Forced Labour in Nepal', ITUC, 2012, retrieved 10 April 2015, http://www.ituc-csi.org/training-on-human-trafficking-and,11565; V Longhi, 'The Nepali Trade Union Federation—Ensuring Safe Migration', *The Guardian*, 18 October 2013, retrieved 10 April 2015, http://www.theguardian.com/global-development/2013/oct/18/human-trafficking-stories-anti-slavery-day

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