

HUMAN TRAFFICKING IN CHINA: ILO ACTIVITIES AND LESSONS FOR INTERNATIONAL POLICY COORDINATION

Presentation to the Hearing on “*Combating Human Trafficking in China: Domestic and International Efforts*”, US Congressional- Executive Commission on China, Washington DC, 6 March 2006

By Roger Plant
Head, Special Action Program to Combat Forced Labor
International Labor Office, Geneva

Distinguished Members of Congress and the Administration,

I am very honoured to be with you today, and to share some information on a subject to which the ILO attaches great importance. I have been a frequent visitor to China since its government requested ILO cooperation on forced labor and human trafficking in 2002, the same year that our Special Action Program commenced its operations.

To place these activities in their proper context, I would like first to say a few words about the ILO’s overall approach to the serious crime of trafficking in persons.

In May last year the ILO launched a path-breaking new report, *A Global Alliance against Forced Labour*. This provided the first global and regional estimates by an international organization of forced labor in the world today. We gave a total of 12.3 million victims of modern forced labor, of which 9.5 million are in the Asian region, and 2.45 million are victims of human trafficking. Most people are trafficked into forced labor for commercial sexual exploitation, but at least one third are also trafficked for other forms of economic exploitation. We also observed that four out of every five cases of forced labor today involve exploitation by private agents rather than the State.

These few figures set the stage for general comments about the ILO approach to human trafficking.

First, we are concerned that, while the trafficking of women and children for sexual exploitation is a particularly serious problem in the modern world, men and boys can also be trafficked for other forms of economic exploitation.

Second, when it is mainly private agents who exploit the victims of forced labor, this means that the offences of forced labor, modern slavery and slavery-like practices, are very closely linked. Indeed it is the presence of *coercion* (which usually takes place at the end of the trafficking cycle), which distinguishes the crime of human trafficking from that of human smuggling.

Third, we believe that the ILO’s broad mandate – derived from its wide range of labor standards, and also its tripartite structure involving employers’ and workers’ organizations as well as governments – gives it a unique role in action against human trafficking. Whether the trafficking is for sexual or for other forms of forced labor exploitation, the ILO’s main strength lies in involving labor as well as business actors, and labor institutions both inside and outside government, in broad-based action against it. This includes awareness raising, data gathering and victim identification, victim protection and law enforcement (including monitoring conditions of recruitment and employment), and return and rehabilitation of victims. Moreover, the ILO’s structure makes it well placed to deal with the challenges of trafficking across the cycle between origin, transit and destination countries.

Moreover, it is important to emphasize that the ILO has two main mechanisms for dealing with problems of forced labor. It has supervisory bodies for monitoring the application of its standards, including its two Conventions on forced labor which now enjoy very widespread ratification. Second, its 1998 Declaration on Fundamental Principles and Rights at Work provides for technical assistance to member States for the promotion of core labor standards, including those on forced labor.

I now turn to the main themes I have been asked to address today: the current state of human trafficking in China; the effectiveness of ILO efforts to counter forced labor and human trafficking there; and the lessons that international and domestic anti-trafficking work may hold for policy in China.

The current state of human trafficking in China: issues of law and practice

I shall not comment on the scale or extent of trafficking in and from China, as we do not have this information at hand. My comments are limited to the law and policy framework and challenges.

In recent years, there has been considerable evidence of Chinese commitment to combat trafficking, as well as smuggling. The US State Department's most recent annual *Trafficking in Persons Report* for 2005 refers to reports that 309 trafficking gangs were investigated, 5,043 suspected traffickers arrested, and 3,144 referred for prosecution. Anti-trafficking coordination mechanisms have been established, involving different agencies at different levels. There has been extensive distribution of information on the dangers of trafficking, as well as increased international cooperation on anti-trafficking activities..

As in several countries however, current penal legislation on trafficking covers only the trafficking of women and children. Article 240 of the Penal Code provides for a heavy prison sentence, plus a fine, for those persons abducting and trafficking women and children. The implication is that several of the offences covered by the definitional articles of the Palermo "Trafficking Protocol" to the United Nations Convention against Transnational Organized Crime (including forced labor or services, slavery or practices similar to slavery) are not covered by existing Chinese legislation.

A draft National Action Plan to combat trafficking is now under active discussion. It sets out some of the main challenges, if action against trafficking is henceforth to become more effective. It identifies the need for a specialist organization to coordinate anti-trafficking activities, and also a shortage of anti-trafficking institutions and personnel. More relevant research should be undertaken. International co-operation should be strengthened urgently, to deal with the increasing incidence of cross-border trafficking in women and children. And laws and regulations need to be further improved.

ILO efforts to counter forced labour and human trafficking

ILO activities have grown steadily over the past few years. An early initiative included Yunnan province of China as part of a broader effort in the Greater Mekong Sub-region to prevent the trafficking of women and children. A specific project to prevent trafficking in girls and young women in China was then designed in close collaboration with the All China Women's Federation (ACWF) and several ministries. Commencing in 2004 with financial support from the United Kingdom, the project's main objective has been to help prevent girls and young women from ending up in unacceptable forms of work or service in China (including the "entertainment industry"), by reducing their vulnerability to trafficking. It operates in both sender and receiving provinces for potential victims of trafficking in China itself. Anhui, Henan and Hunan have been chosen as sending provinces; and Guangdong and Jiangsu as receiving provinces.

Since 2002 the ILO has been engaged in dialog and cooperation with China over forced labor concerns including trafficking in persons. In its annual report for 2003 under the ILO's Declaration on

Fundamental Principles and Rights at Work the Government identified, as a difficulty with regard to the elimination of forced labor, “the lack of information and lack of capacity of responsible government institutions concerning forced labor due to trafficking”. It also requested assistance with regard to broader forced labor concerns, to prepare the ground for anticipated eventual ratification of the ILO’s two Conventions on forced labor. The ILO has provided assistance for proposed reforms of China’s Reeducation through Labor (RETL) system, through technical seminars in China and study tours overseas. A first study tour was organized in September 2003, enabling Chinese officials to observe experience and best practices for dealing with minor offences in France, Germany, Hungary and Russia. The delegation comprised senior officials from the Ministries of Labour and Social Security, Justice and Public Security; and from the Standing Committee of People’s National Congress and the Legislative Bureau of the State Council. In January 2005 a similar delegation visited Australia and Japan, to exchange experience with particular regard to community service and also measures against trafficking. An aim of these visits has been to strengthen a network of officials from key Government agencies, who can cooperate in the process of law and policy reform in the areas of forced labor and trafficking.

Since September 2004 the ILO’s Special Action Programme to Combat Forced Labor has been implementing, with the Ministry of Labor and Social Security (MOLSS) as its Chinese partner agency, a project on “Forced Labor and Trafficking; the role of labor institutions in law enforcement and international cooperation in China”. Supported by the US Department of State, the project aims to enhance the capacity of the Government of China to address the law enforcement aspects of the trafficking cycle, with activities in both China as a sender country and several European destination countries. It has components of policy advice, awareness raising and capacity building at both central and provincial levels, activities with employers’ and workers’ organizations, and research in the destination countries. In China, the activities have concentrated on the provinces of Fujian, Zhejiang and Jilin.

The project has already served to stimulate important debate on law and policy concerns related to trafficking, notably the difference between existing Chinese approaches and those of the Palermo Trafficking Protocol. A high-level Chinese expert reviewed all existing national legislation on forced labor, trafficking and smuggling; as well as comparative studies on relevant concepts in national and international law. A key objective of a national seminar held under the project in April 2005 was to compare these approaches, and seek the means to harmonise Chinese law and policy with emerging international standards on trafficking.

Activities at the provincial level have had the practical objectives of training law enforcement officials, together with labor authorities, on the prevention and eradication of forced labor and trafficking. To this effect a training program held in Yanji, Jilin province in August 2005 brought together labor and public security officials from provincial and lower levels, and also representatives of recruitment agencies. This is a province of North-eastern China, bordering Russia and North Korea, with heavy unemployment of some 5 million persons. More than 100,000 migrants are currently seeking work overseas, many of them from Yanji which is an autonomous region of Chinese Korean minorities. There have been concerns that, since extensive emigration got under way in the late 1980s, Korean and Chinese recruitment agencies have colluded in deceptive recruitment mechanisms. The seminar focused on ways in which the Government can reinforce its monitoring of recruitment agencies. It also identified difficulties in effective application of existing law, in order to punish illegal recruitment agencies.

A further training workshop was held in Fujian province in November 2005, bringing together officials from Jilin, Fujian and Zhejiang provinces, along with representatives of recruitment agencies, tourism bureaus, women’s organizations, labor lawyers and trade unions. Law enforcement and immigration/visa officials were also invited from France and the United Kingdom, as key destination countries for Chinese migrants from Fujian and Zhejiang. The training again focused on the prevention of trafficking, through

effective monitoring of the recruitment agencies that play an important role in sending people overseas. Highlighting the deceptive methods, together with the charging of exorbitant fees, that can drive Chinese migrants into situations of severe debt bondage, participants identified the need for a major awareness raising campaign in a proposed second phase of the project.

Concurrently, SAP-FL has been carrying out a major research programme in European destination countries. Generally, there has been growing awareness that Chinese migrants can be subject to highly abusive conditions of work and transportation in the destination countries of Europe, the Middle East, the Americas and elsewhere. In the United Kingdom for example, the tragic deaths of 20 Chinese cockle pickers in early 2004 brought to light the severe forms of exploitation to which these clandestine migrants can be subjected. And in the United States, it has recently been estimated that as many as half the victims of forced labor may be ethnic Chinese.

And yet there has been very little systematic research on the subject. To fill this gap, we first issued an overview paper on the subject of Chinese migrants and forced labor in Europe. This was followed by a case study on the trafficking and exploitation of Chinese immigrants in France (currently available only in the French language, though it is now being translated into English). The study (based on ten detailed case studies and a wide range of interviews with labour and other officials, as well as members of the Chinese community and other key informants) examines the whole cycle of recruitment and transport, as well as the living and working conditions experienced in France by clandestine Chinese migrants. It examines the complex links between the “snakehead” recruiters, either in China or overseas, and employers in the Chinese ethnic enclaves in France. High indebtedness is identified as the key factor behind the severe labor exploitation of most Chinese migrants. 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. Fifteen-hour workdays are common, as are cases of direct physical restraint. The study estimates that it can take between two and ten years for the average migrant to pay off the debt.

The French report was released with considerable publicity in Paris in June last year, and has been followed by extensive media reporting. Similar research is now under way in Italy and the United Kingdom. It has been actively solicited by our partners in the Chinese government, who see documentation of this kind as an essential ingredient of future prevention campaigns. A video film of the Chinese experience in France has recently been completed.

The question of effectiveness, and lessons for policy coordination

How effective are our efforts? It may be early to judge, following a few years experience on a complex and sensitive subject. But during each of my visits to China, as well as several exchanges with Chinese officials abroad, I have found reason to believe that the Government, as well as our social partners in employers’ and workers’ organizations, are increasingly determined to grapple with the problems of human trafficking as well as smuggling, and to combat it by strengthening law enforcement and international cooperation. Only this week we are holding our first training sessions with the Chinese Employers’ Confederation, in Beijing and Hanzhou respectively, on means to identify potential forced labor problems at the enterprise level and prevent their occurrence.

Despite impressive economic growth, the pressure for emigration from China remains immense. China is a labor abundant country, experiencing very high unemployment in certain regions. Some local governments actively encourage people to emigrate, regarding such emigration as a solution to local unemployment problems.

Moreover internal migrants, such as rural workers moving to the cities, can be vulnerable to trafficking for labor exploitation. There are signs that China is taking steps to respond to these challenges. Pilot reforms to the *Hukou* registration system, now being tested in certain cities, permit equal access to employment for migrant workers. And in 2005 China ratified the ILO's Discrimination (Employment and Occupation) Convention, No. 111 of 1958, again providing the scope for more protection for such migrants.

Internal trafficking in China, including the abduction and sale of women for forced marriage and of children for adoption, remain serious problems in China. Continued efforts are needed to clamp down on these forms of abuse, and to punish the perpetrators.

On reforms to the Reeducation through Labor system, this process is taking its time. Its reform has been incorporated in the Five-Year Legislation Plan, and a draft law regarding an alternative system of community correction has been submitted to the National Peoples' Congress. We continue to watch this matter closely.

It is important to have a realistic approach to Chinese population movements. In Europe for example, the growing presence of Chinese migrants is often viewed with concern. At a recent European meeting on illegal migration from China, the emphasis was mainly on problems of border control, fraud and visa abuse, and the use of technology such as biometrics for identifying fraudulent practices. Nevertheless – as the UK experts emphasized at our recent Fujian seminar – there can be strong demand for Chinese workers. And aspiring Chinese emigrants may pay a fortune to the snakeheads, landing themselves in severe debts, and making themselves and their families liable to violent reprisals, without even looking into the channels for lawful emigration.

For these reasons it is important in the near future to promote safe and legal migration, rather than make fruitless efforts to persuade people not to move. Awareness raising and prevention are essential measures, to complement vigorous law enforcement.

Learning from experience to date, we are now planning continued cooperation with China at both national and provincial levels. Measures to help strengthen the law and policy framework will focus on forced labor and trafficking for labour exploitation. Other aspects will focus on the training of central and provincial government officials on labor migration management, including the management of private recruitment agencies.

At the provincial level, we now plan to target more intensively the sender provinces of Fujian and Zhejiang. An awareness raising program, drawing on diverse tools including hotlines, local media and the websites of recruitment agencies, will focus on regions already identified as at high risk for potential migrants. Other planned program components aim to improve capacities to provide education, health care and other services to victims of trafficking and labor exploitation.

A real challenge is to promote informed dialog between the governments of China and the principal destination countries for Chinese migrants, as to the means to prevent and combat forced labour and trafficking. Building on our research and data gathering, as well as the initiatives of international partners in the European Union countries and elsewhere, we see an urgent need to involve business and labour actors in this international cooperation. We aim to bring together labor institutions and authorities, law enforcement agencies and academic experts from both sides, and we hope that such an initiative will also be of interest to the United States.

Thank you for your attention.