

# Exploitation of migrant labour in Finland: indicators of trafficking for forced labour

**Natalia Ollus**

Senior Programme Officer

European Institute for Crime Prevention and Control,  
affiliated with the United Nations (HEUNI)



# Contents of presentation

- Research project on trafficking for forced labour and labour exploitation
- Data collection issues and good practices in this regard
- Indicators of trafficking for forced labour based on empirical data
- Brief discussion on the definition of trafficking for forced labour

# Our starting point in Finland

- No court judgements for trafficking for forced labour in Finland so far, 2 acquittals (3 convictions for trafficking for sexual exploitation)
- 3/4 of all adult victims assisted by the official State-run support system have been victims of labour exploitation
- The number of cases of extortionate work discrimination has increased

# EU DG JLS co-funded project

- “Trafficking for Forced Labour and Labour Exploitation (FLEX) - towards increased knowledge, cooperation and exchange of information in Estonia, Finland and Poland” (JLS/2009/ISEC/AG/051), November 2009 – February 2011
- Partners
  - Finland: European Institute for Crime Prevention and Control (HEUNI) – Project leader
  - Estonia: University of Tartu, School of Law
  - Poland: Human Trafficking Studies Centre at Warsaw University

# Objectives of the project

- To develop and test a joint methodology for collecting qualitative and quantitative data on trafficking for forced labour
- To increase the knowledge of trafficking for forced labour in Estonia, Finland and Poland
- To strengthen cooperation and exchange of information nationally and internationally

# Research in Finland: data used

- Expert interviews (19 persons)
- Victim interviews (7 persons)
- Selected court judgements
- Selected police pre-trial investigations
- Media reports (2004-2010)
- Labour inspection reports
- Information from national expert meetings
- Various statistics

# Cooperation in data collection

- National expert meetings as a platform for networking and sharing of information
- Interviews with experts with first-hand information
- Establishment of good cooperation with official victim assistance system and victim assistance organisations
- Multiple and innovative data sources
- Sharing of findings among practitioners (joint national seminar in February 2011)

# Definition of trafficking

- The definition of forced labour seems unclear to many experts
- Trafficking for forced labour is seen as something extreme
- Not all exploitation of foreign labour in Finland constitutes trafficking but by looking at a broad range of exploitative situations, we can uncover the most exploitative situations and discuss whether it includes elements of trafficking
- ILO Committee of Experts' elements of extraction of work or services "under the menace of any penalty" as indicators of situations with possible elements of forced labour



# Preliminary results: indicators of exploitation (following ILO 2005)

## **Physical or sexual violence:**

- Few examples of direct physical violence
- Threats and intimidation are clearly a more common method of control than direct physical violence
- Threats directed at family members, also direct threats of violence against victims

## **Restriction of movement:**

- Few examples of restriction by force, mostly subtler forms of control
- Long working hours, no means of transport, lack of language skills and local knowledge effectively restrict the workers' possibility of movement
- Examples where employers forbade contacts to the outside world, to other members of same ethnic group, and from learning the local language

# Preliminary results: indicators of exploitation (following ILO 2005)

## **Debt:**

- The employee is indebted already when arriving in Finland because of high mediation fees or travel costs
- If the debt cannot be paid back while working in Finland, the person will have to return again with the risk of becoming even more indebted
- Debt of gratitude to the employer for arranging a job in Finland

## **Withholding wages or refusing to pay:**

- Many examples where the pay is significantly below the minimum salary as stipulated in the collective labour agreement
- Employees are forced to pay back some or all of their salary in cash to their employer in order to make the company's bank transactions look like the employer has paid the workers a correct salary
- Unreasonable deductions are made from the salary for food, accommodation and transport
- Part of the salary is paid to an intermediary

# Preliminary results: indicators of exploitation (following ILO 2005)

## **Retention of passports:**

- Some examples of passports having been taken away from the workers
- E.g. the employer keeps passport and when returning the passport to the worker, a deposit is taken from the salary, and this money is only returned when the passport is given back to the employer

## **Threat of denunciation:**

- Threatening with sending the worker back to the country of origin or with denunciation to Finnish authorities
- Fear of losing the job and being returned to the home country is a central reason for continuing working despite poor conditions
- Threatening with firing or not extending the work contract, with non-payment of wages

# Trafficking for forced labour?

- Not all exploitation presented here corresponds to the criminal law definition of human trafficking. However, the most serious instances of such cases may be trafficking for forced labour or border to trafficking.
- Forced labour encompasses activities which are more serious than the mere failure to respect labour laws and working conditions (ILO 2005)
- "Extortionate work discrimination is bordering to trafficking when foreign workers have to do unreasonable amounts of work without due consideration for labour and occupational safety" (Finnish police)

# Demystification of trafficking

- In cases of exploitation of migrant workers, often only separate indicators of work discrimination are seen
- Need to see the totality of the situation of the person, including also subtle forms of control of movement and indicators that show a dependency on the employer
- Question of attitudes and awareness: move away from the idea that trafficking for forced labour cannot happen in our society – demystify trafficking and recognise the indicators/elements of trafficking
- Important role of research in describing the violence, control, exploitation and maltreatment that workers have experienced when working in Finland. Research can also help clarify the distinctions between trafficking and other forms of exploitation and control.

# Thank you

Natalia Ollus

HEUNI

[natalia.ollus@om.fi](mailto:natalia.ollus@om.fi)

[www.heuni.fi](http://www.heuni.fi)

# Sectors of exploitation of migrant workers

- Construction industry, including metal and electric works
- Service sector, including cleaning work, transport industries (especially bus drivers) and massage work (bordering also to sexual exploitation)
- Ethnic restaurants
- Agricultural sector, especially greenhouse work, seasonal work and picking of wild forest berries
- Domestic work and caretaking

**h e u n i**

# Preliminary results: source countries

- Estonia, Russia, Poland (construction business and in electric works)
- China, Vietnam (cleaning work, restaurant business)
- Thailand (berry-picking)
- In addition some victims from e.g. India, Latin America, Middle East



# Additional indicators

## Work contracts:

- The employee has two separate contracts, one in his or her own language, which states the de facto salary, and another one with a much higher salary to be shown to Finnish authorities in the event of an inspection
- The employee is made to believe he/she is tied to one employer only

## Poor living conditions:

- Employees are forced to live in the employer's apartment while paying high rents
- Employees are forced to live in the same premise where they work
- Employees are made to live in caravans, barracks, or facilities not suited for accommodation, with several employees sharing one small room

## Dependency on the employer:

- Employees who do not know the language or are unaware of his/her rights

# ILO indicators of forced labour (2005)

- “
- Physical violence, including sexual violence
  - Restriction of freedom of movement
  - Threats
  - Debt and other forms of bondage
  - Withholding of wages or no payment of wages
  - Retention of identity documents

**h e u n i**

# Trafficking in human beings

- Penal Code: Chapter 25 3 § - Trafficking in human beings (650/2004)

## A person who

- (1) by abusing the dependent status or insecure state of another person,
  - (2) by deceiving another person or by abusing the error of that person,
  - (3) by paying remuneration to a person who has control over another person or
  - (4) by accepting such remuneration takes control over another person, recruits, transfers, transports, receives or harbours another person for purposes of sexual abuse referred to in chapter 20(9)(1)(1) or comparable sexual abuse, forced labour or other demeaning circumstances or removal of bodily organs or tissues for financial gain shall be sentenced for trafficking in human beings to imprisonment for a minimum of four months and a maximum of six years.
- (2) A person who takes control over another person under 18 years of age or recruits, transfers, transports, receives or harbours that person for the purposes mentioned in subsection 1 shall be sentenced for trafficking in human beings even if none of the means referred to in subsection 1(1 – 4) have been used.
- (3) An attempt shall be punished.

# Aggravated trafficking in human beings

Penal Code: Chapter 25 3 § - Aggravated trafficking in human beings (650/2004)

(1) If, in trafficking in human beings,

(1) violence, threats or deceitfulness is used instead of or in addition to the means referred to in section 3,

(2) grievous bodily harm, a serious illness or a state of mortal danger or comparable particularly grave suffering is deliberately or through gross negligence inflicted on another person,

(3) the offence has been committed against a child younger than 18 years of age or against a person whose capacity to defend himself/herself has been substantially diminished or

(4) the offence has been committed within the framework of a criminal organisation referred to in chapter 17(1a)(4) and the offence is aggravated also when considered as whole, the offender shall be sentenced for aggravated trafficking in human beings to imprisonment for a minimum of two years and a maximum of ten years.

(2) A person who enslaves or keeps another person in servitude, transports or trades in slaves shall also be sentenced for aggravated trafficking in human beings if the act is aggravated when assessed as a whole.

(3) An attempt shall be punished

# Extortionate work discrimination

- Introduced in 2004 as a crime under Employment offences of the Penal Code (Chapter 47: Section 3a).

*If in the work discrimination an applicant for a job or an employee is placed in a considerably inferior position through the use of the job applicant's or the employee's economic or other distress, dependent position, lack of understanding, thoughtlessness or ignorance, the perpetrator shall, unless a more severe penalty is provided for the act elsewhere in the law, be sentenced for extortionate work discrimination to a fine or to imprisonment for at most two years.*