

**Forum:** *Human Rights Council*

**Issue:** *Preventing the use of forced labor and ending illicit trafficking of the victims thereof*

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## Introduction

Modern day human trafficking appears in various forms, from trafficking across borders to working as domestic laborers with no pay. An estimate by the International Labor Organization (ILO) found that 20.9 million people is subjected to forced labor, even when it is condemned universally. 90% of the forced labor prevails in the private economy, by individuals or private industries, while the remaining 10% exists in state-imposed forms of forced labor such as prisons or military. Within those exploited in the private economy, 4.5 million face sexual exploitation, and approximately 14.2 million face forced labor exploitation. Human trafficking has become a prevailing human rights concern in the 21st century that pose serious challenges to law enforcement. The trafficking of persons is fueled by severe poverty domestically, such that immense pressure is placed on the individual to leave the economic struggles of their home country and seek opportunities in foreign nations.

Although many trafficked victims are moved to foreign locations, the movement itself does not constitute human trafficking; it is the force, fraud, and coercion exercised upon the person to remain in service that acts as defining elements of human trafficking (U.S. Department of State, 2005). Furthermore, because victims often fear the corrupt law enforcement or retaliation by traffickers towards their family members, they are reluctant to report their victimization. Currently, there are insufficient systems to measure the prevalence of human trafficking and forced labor; therefore, it is very hard for governments and organizations to help the victims involved. Moreover, because of the crime's hidden nature, the victims usually do not reach out for help due to fear of the perpetrator. There are various types of trafficking including sex trafficking, forced labor, bonded labor, and child soldiers. Furthermore, forced labor exist in various forms, from the forced prison labor in the US to the involuntary servitude of migrant workers. Human smuggling, however, is different from human trafficking as there is mutual consent between illegal immigrants, when there is none between the trafficker and the victim.

## Definition of Key Terms

### Commercial Sex Act

Commercial sex act is any engagement of sexual intercourse in which any values is received or given by any person involved. According to the US Trafficking Victims Protection Act 2000, any minors or any persons under the age of 18 involving in any form of commercial sex is considered as a victim automatically.

### Debt Bondage

Debt bonded labor occurs when an individual work to pay off debt. In the context of human trafficking, traffickers tend to use fraud, such as setting a price for traveling, to force the victim to work. Such practices are considered illegal since debt cannot be dictated.

### Fraud

Fraud is the intentional deception or perversion of the truth with the intent to deprive an individual's right or do him an injury. Moreover, in the context of human trafficking, fraud usually involves false promises of job opportunities. The luring of victims often involves the promise of a better life, thus, the perpetrators target poor families offering to children a better life in foreign nations, in terms of receiving education and living with a loving family, only to send the children to a factory. When fraud is used, the initial consent of the victim becomes invalid therefore it becomes forced labor.

### Forced Labor

Work that is done involuntarily and under the menace of any penalty is considered as forced labor, and it refers to situations which individuals are forced to work through the use of violence, intimidation, or by more subtle means such as manipulated debt, retention of identity papers or threats of denunciation to immigration authorities (International Labor Organization 2019). The Forced Labor Convention 1930 defines forced or compulsory labor as "all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily." However, there are still exceptions to this definition which includes: 1) compulsory military

service, 2) normal civic obligations, 3) prison labor, 4) work in emergencies, and 5) minor communal services (within a community), as described by the convention.

## Human Trafficking

Human trafficking is generally understood as the process of individuals forced to maintain in exploitive situations. Human trafficking is traditionally recognized as the practice of displacing individuals in foreign places to use them as laborers. However, human trafficking can also occur domestically, thus, it is impossible for victims to consent to “trafficking” (Office of the United Nations High Commissioner for Human Rights OHCHR 2014). The United Nations (UN) defines the act of human trafficking as the recruitment, transportation, transfer, harboring, or receipt of persons by improper means (such as force, abduction, fraud, or coercion) for an improper purpose including forced labor or sexual exploitation (National Institute of Justice 2018).

## Background Information

### Globalization

Globalization is the process of integration and interaction between people, private corporations and enterprises, and governments worldwide; it is also considered as capitalist expansion entailing the integration of national and local economies into the global economy. This process has been enhanced by the advances in transportation and communication technologies. As globalization is beneficial to national and local economies and development, it has contributed to the escalation of human trafficking. As globalization fosters interdependence between states, there is an increased need for cheap labor. This phenomenon plays a huge role in objectifying and exploiting human resources. In a developing nation, where agrarian lifestyle is predominant, farming is the major income for households, thus, these individuals are left without appropriate skills or education to compete in the evolving workforce. Consequently, as the demand for cheap labor by multinational enterprises increases, developing countries have turned into factories for the developed world. The high demand for cheap labor as an effect of globalization consequences in the facilitation of trafficking and exploitation of human resource. (Brewer 47)

A large number of women involved in human trafficking comes from countries where the rule of law and civil society are at the mercy of political upheaval (Clark 2003). The legal system as well as social and cultural contributions to the vulnerability of these women. These women may suffer from forced arranged marriage, entrenched discriminatory legal practices, and lack of education. These factors contribute to the facilitation of trafficking as the trafficker deceive and coerce these women to

work in sex industries or forced labor in factories. Moreover, since legal systems are designed as such to convict the women instead of the trafficker, women usually do not report to customs or even request for help. The legal system is designed to charge the women as an illegal alien or deporting her due to the possession of forged documents. Moreover, prostitution is illegal in most nations, making it harder for women to reach out for help or report to authorities. This allows the trafficker to control the women and keep them from fleeing, in essence, these women are stuck in the process of trafficking.

In the globalized world, migration within and across borders allows economic and social mobility, benefiting millions of people in seeking a better life. However, there is a growing recognition that the exploitation of migrant workers has become a prevailing issue in developing countries. Human trafficking, forced labor, and other forms of extreme exploitation such as forced marriage are now characterized by the term “modern slavery.” Globalization has enhanced immigration and the abuse of migrant workers prevails among the developing world.

### Forced Labor

Generally, there are two kinds of forced labor, the first being state-imposed and the other exists in the private economy. Forced labor is not only used by private enterprises in the private economy, but also by governments that intends to punish people for their wrongdoings. However, these kinds of forced labor are criticized by Non-governmental Organizations (NGOs) and the international community. The use of forced labor as punishments for the expression of political views and the use of prison labor violate human rights and is condemned in the Abolition of Forced Labor Convention No. 105 during 1957. State-imposed forced labor includes labor camps and prison labor by which both are imposed as punishments to certain crimes. There are different types of state-imposed forced labor that is condemned internationally. Forced labor in the private economy is absolutely incompatible with international law.

Private enterprises utilize modern slavery and forced labor to produce cheap products in the developing world. These cheap products are then sold to the developed world. Modern slavery exists in various forms and in all kinds of work, these forced laborers can be found in different work areas, from fishing boats to factories, and from drug production to prostitution. Some disabled individuals are employed to beg on streets, but they do not get paid and are deprived of the most basic human rights including the access to food and sleeping. Others may be forced to conduct illegal drug production in hidden offices or factories. Many drugs are produced domestically in homes by human trafficking victims. Sexual exploitation is another major concern when dealing with forced labor, sex trafficking is another prevalent issue. Women escaping from domestic violence are targeted by traffickers, the traffickers would tell those women escaping that they can help these women seek better opportunities. These

women, deceived by the trafficker, would then be involved in the sex industry, which is illegal in most countries. Therefore, they fear to seek help or report to authorities.

## Key Issues

### Human Rights

Human trafficking is a multidimensional human rights abuse that entails exploitation and recruitment of people. Human rights have been well established in the Universal Declaration of Human Rights (UDHR), outlawing forced labor, debt bondage, sexual exploitation, and many others. Human trafficking has violated and abused many human rights laws recognized internationally. The UDHR and the UN charter affirms that human rights are universal, in other words, it applies to everyone. That said, trafficked persons are entitled to a full range of human rights irrespective of their race, religion, gender, or other distinctiveness. Even if they are outside of their country with illegal documents, the Human Rights Committee have made comments regarding aliens and granted them inalienable rights that states must respect.

*Forced labor* violates the fourth article of the UDHR that prohibits involuntary servitude and slavery. Those trafficked or forced laborers are deprived of their most basic human right, given that their trafficker or owner deceives and coerced these workers to work for them. Even if the victim had originally agreed to travel with the trafficker, the negotiated terms are fraud, therefore, that does not count as mutual consent between the victim and the perpetrator. That said, the perpetrator is violating a series of rights the victim deserves.

### Law Enforcement

Law enforcement is a major issue within the issue of human trafficking and forced labor. As both are all hidden crimes, it is hard for the government to estimate the prevalence of the issue. Therefore, it is difficult for the government to foster human rights and stop human trafficking and forced labor in this case.

Governments subjected to the legal obligation to protect the rights of the trafficked and provide them with adequate support without criminalizing them. Treaties and conventions are the major sources of obligation for states to respect human rights that are universally defined. The process of becoming a party to the treaty requires the states to undertake the binding obligations in international law ensuring that domestic laws are consistent with the standards in the international law. Moreover, these obligations are enforceable by appropriate jurisdiction such as the International Court of Justice (ICJ). However, the

court can only enforce jurisdictions if both parties agree on it, otherwise, the court is only allowed to make recommendations to disputes or inconsistencies.

Aside from states' obligation to prohibit trafficking and forced labor. Domestic law enforcement is another factor that causes problems, which corruption and bribery are frequently practiced in the developing world. Which enhances and facilitates the trafficking of persons in the developing world. Criminal justice systems are often flawed in the developing world filled with corruption, thus, increasing the complexity of the problem.

## Major Parties Involved and Their Views

### United States of America

The US had passed the thirteenth amendment after World War II to officially abolish slavery and criminalizes trafficking. However, within the amendment, there is a loophole that allows penal labor to exist in the US, which the the amendment permits slavery as a form of punishment. This particular part within the amendment had severely increased incarnation rate within the US, thus, many inmates are used as laborers for private corporations as prisons are privatized in the US. The prison industrial complex in the US is a rather complicated situation of forced labor, in fact, US laws allows forced labor among prisoner as a crime. Another prevalent form of forced labor in the US is forced prostitution. Many runaway child become homeless without money, food, and shelter, therefore, their employers deceived them to work in the sex industry and used drugs to control them. The US defines any person under the age of 18, which is a minor, performing any form of commercial as the victim in the case. Various laws and acts have been passed by the US Congress to combat human trafficking. The Trafficking Victims Protection Act (TVPA) was authorized in 2000 and is reauthorized every three years until 2011 as it expired. A new bill is introduced to congress to reauthorize the act, moreover, the US remains as an international leader in combating human trafficking.

### Thailand

In Thailand, many forms of human trafficking and forced labor exist, the most predominant forms are sex trafficking and forced labor in the fishing industry. Many tribal people have been trafficked from rural areas in Thailand to urban tourist areas where they practice sex tourism forcibly. Those tribal people living in highlands often lacked citizenship, therefore, they are considered as stateless individuals. Being stateless means no government protection and documentation thus they will not receive health care, lacking access to education, jobs with fair wages and governmental protection. As there are no legal documentation of such individuals, it becomes increasingly easy for traffickers to traffick these individuals without the government noticing. Migrant children from Laos and Myanmar are

also victimized in the country, children can be seen begging on streets in Thailand due to human trafficking. Thailand is the first nation in Asia to ratify the forced labor protocol by the International Labor Organization (ILO). Moreover, they have been ranked tier two by the US, meaning that their government have not been complying with the minimum standards of eliminating trafficking in person, however, the government have been making significant efforts in combating the issue.

## China

In 2016, the Global Slavery Index estimates that there are around 3.8 million individuals in the country trapped in modern slavery. As China becomes the second largest economy globally, the rapid economic development had been caused by the labor intensive cheap product for export purposes. This trend increases the rate of human trafficking and forced labor within the country and it has been the predominant form of trafficking. The Re-education through Labor (RTL) system had been announced to be abolished in 2013, however, there are allegations that these camps have been transformed into drug rehabilitation centers maintaining the state-imposed forced labor. Moreover, victims have been working in coal mines, factories, and construction sites throughout China, human trafficking and forced labor remains as a critical issue within the nation. China is ranked by the US as tier three, meaning that little has been done to meet the standards and the government had not been making significant effort in combating human trafficking.

## Democratic People's Republic of Korea

More than 2.6 million people work as forced laborers in DPRK, many of which are prisoners working in labor camps. Moreover, many of those prisoners are being held for alleged political crimes. Critics have been referring the nation as a slave state that uses its citizens for the regime's benefit. On the other hand, due to the uncountable human rights violation the regime had committed, the UN Commission of Inquiry on Human Rights in North Korea released a report concluding that the regime had no parallel to the contemporary world. There are essentially no action taken by the government to prevent forced labor provided that they are all state imposed. Furthermore, defectors of the country continuously faced the threats of human trafficking and forced labor in the borders of China. Given that they do not have any knowledge of the contemporary world, thus, these defectors do not understand that they are being subjected to modern slavery.

## Timeline of Relevant Resolutions, Treaties, and Events

Date	Description of event
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### **Convention Concerning Forced or Compulsory Labour**

1 May 1932

The forced labor convention in 1930 is passed to prevent forced labor and has established standards and prohibited slavery.

### **Passage of the Thirteenth Amendment**

December 6, 1865

The US officially abolished slavery with the passage of the thirteenth amendment, however, the amendment forbade forced labor except as a punishment of a crime.

### **The Adoption of UDHR**

10 December 1948

The UDHR was adopted by the United Nations General Assembly as a list of basic human rights and freedoms every human is entitled to. This is the first time the international community agreed on a comprehensive list of rights that humans are entitled to.

### **Worst Forms of Child Labor Convention**

19 November 2000

The Worst Forms of Child Labor Convention is passed to condemn the worst conditions of child labor. Eliminating the terrible conditions child laborer worked in and in a sense established the standards of worst forms of labor.

### **The United Nations Convention against Transnational Organized Crime**

March 3, 2019

The convention was adopted by the United Nations General Assembly and is not the major instrument against transnational organized crime, representing a major step in the fight against transnational crimes.

## **Relevant UN Treaties and Events**

- Trafficking in women and girls, 2 February 2017 (**A/RES/71/167**)
- ILO Forced Labour Convention, 1930 (**No. 29**)
- Promotion and Protection of the rights of children Exploitation of child labor, 14 October 1996, (**A/51/492**)
- Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, 16 June 2017 (**A/HRC/35/L.6**)



## Evaluation of Previous Attempts to Resolve the Issue

There has been many previous attempts in resolving the issue, however, many of it are treaties or conventions defining human trafficking and forced labor. In a sense, those solutions are not very effective in resolving the issue. The major obstacle within the issue is the lack of law enforcement and awareness. Many of the solutions done previously tackles only one aspect of the issue. Solutions to human trafficking varies in each nation, some governments have established various policies and laws attempting to prevent human trafficking, other have been falling behind with no policies or laws implemented to stop human trafficking. The UN protocol to Prevent, Suppress, and Punish Trafficking in Person settled a universal definition thus created a goal for countries to comply. Other transnational actions has been implemented to combat human trafficking such as forming organizations, laws, policies, or educational programs, However, these actions have not been successful due to different cultural norms and structure of the government.

It has been increasingly challenging addressing human trafficking around the globe, considering the fact that due to different cultures, economies, and regions, methods of trafficking varies. Therefore, making it harder for there to be a single set of laws or policies addressing such issue. Even if there are laws, law enforcement varies in each country. Corruption, different justices systems, and cultural interpretations undermines transnational efforts and implementation of laws. Some nations criminalizes victims for entering the country with illegal documents as an alien, therefore, toughen the situation and prevents those victims from entering the justice system for protection. On the other hand, some countries have soften the laws to protect the victims. These varying policies and cultural norms causes law enforcement to be low in transnational efforts.

## Possible Solutions

Generally, there are a few methods to combat the issue, which is to strengthen victim support, raise awareness, improving legislation, and increasing transparency. There are many possible solutions to the issue of human trafficking. Stricter border control along with tighter laws regulating the use of labor and regulation corporations could be a feasible solution. However, since human trafficking is more prevalent in developing nations, corruption is an prevailing issue in such regions undermining the government's ability to enforce stricter laws and criminalizing traffickers. Another approach would be to soften the laws on illegal aliens and immigrants holding illegal documentation, considering the fact that these victims are often held in the situation fearing that they would be subjected to jailing sentences or that they are not protected by the government. These laws could be modified through various ways, for example, by subjecting those trafficked as victims and crating programs to help these individuals nationally. Poverty is one of the major causes of human trafficking, therefore, ending the vicious cycle of

poverty would essentially contribute to combating human trafficking. Education could be the key to resolving poverty, therefore, through increasing access to education could help relieve the situation. As law enforcement are weak in these countries, preventing corruption would be another approach. Raising awareness of the issue can also help the situation as citizen can help identify human trafficking and forced labor, then reporting it to custody or authorities.

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