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## Forced labour – well-hidden mechanisms of dependence and enslavement

### Praca przymusowa – ukryte mechanizmy zależności i zniewolenia

**Abstract:** Forced labour is a social phenomenon which is difficult to comprehend and accept due to its exceptional nature. The existing legal definition is not very helpful. This article reflects on a different approach to understanding forced labour and a different operational definition of the phenomenon. The starting point is to look at forced labour from the perspective of social pragmatism and symbolic interactionism by referring to the humanistic coefficient, a concept developed one hundred years ago. Using the experience of Poland in unsuccessful attempts to deal with forced labour, but also referring to global experiences in that field, this article attempts to define the phenomenon in the context of work in general. The key question that arises here is this that if work is a noble and socially visible phenomenon, how is it then that forced labour is almost completely invisible, not only to people, but also to law enforcement? It is suggested in this text that forced labour, burdened with a strong social taboo, is hidden behind a façade of the nobility of labour. At the end of the article, there is a proposal for a new analytical scheme with which the phenomenon can be described in a completely different language than that of criminal justice.

**Keywords:** labour, forced labour, new definition of forced labour, combating forced labour, cultural taboo, social communication

**Abstrakt:** Praca przymusowa jest zjawiskiem społecznym, które ze względu na swój wyjątkowy charakter jest trudne do zrozumienia i zaakceptowania. Istniejąca definicja prawna nie jest szczególnie pomocna. W artykule przedstawione jest inne podejście do rozumienia pracy przymusowej oraz nieco inna, ale operacyjna definicja tego zjawiska. Punktem wyjścia jest spojrzenie na pracę przymusową z perspektywy społecznego pragmatyzmu i symbolicznego interakcjonizmu, odwołujące się do

koncepcji współczynnika humanistycznego, wypracowanej sto lat temu. Patrząc na doświadczenia Polski, tzn. nieudane próby radzenia sobie z problemem pracy przymusowej, ale także na podobne doświadczenia w skali globalnej, podejmuję próbę zdefiniowania samego zjawiska – jako takiego, ale także w kontekście pracy w ogóle. Kluczowe pytanie, które się pojawia, brzmi: praca jest zjawiskiem szlachetnym i społecznie widocznym, więc jak to jest, że praca przymusowa jest tak mało widoczna dla ludzi, ale także dla organów ścigania? Stawiam tezę, że praca przymusowa, obciążona silnym społecznym tabu, skrywa się za fasadą pracy, jako zjawiska wyjątkowo godnego i szlachetnego. W końcowej części artykułu pojawia się propozycja nowego schematu analitycznego, który pozwoli opisać zjawisko pracy przymusowej, zupełnie innym językiem niż język wymiaru sprawiedliwości w sprawach karnych, ale przede wszystkim, jako fenomen społeczny.

**Słowa kluczowe:** praca, praca przymusowa, nowa definicja pracy przymusowej, zwalczanie pracy przymusowej, kulturowe tabu, komunikacja społeczna

## Introduction

Human trafficking and forced labour are social phenomena which are difficult to comprehend or accept due to their completely exceptional nature (Winterdyk, Perrin, Reichel 2012). Even though it may seem hard to imagine, I continually come across people who, upon finding out about the subject of my scientific interests, ask, 'But what is human trafficking? Does it really exist? What forced labour are you dealing with, the modern kind?' My first reaction has always been astonishment, but because I have been astonished for years, I often quickly conclude that such 'ignorance' is, in a certain sense, normal because it is difficult to imagine the total enslavement of another person and treating others as items. To be brief, one can venture to say that the level of society's awareness about human trafficking is low because in many places human trafficking is not a matter of public debate, i.e. the authorities' interest is minimal, little is said or written about it, and it is not the subject of regular scientific study. Without challenging the justifiability of such statements, I believe that some of my interlocutors react the way they do not because they know nothing, but because human trafficking does not fit into the cognitive patterns of a modern person. The information that 'forced labour takes place next to us' cannot find a place in the mind of the recipient where it can be located and internalised. And if this is the case, to avoid the discomfort resulting from cognitive dissonance, it is natural to push away the uncomfortable facts (Myers 1996: 484).

The low level of awareness about human trafficking and forced labour may also be a consequence of the language that we are using. In practice, in the description of these crimes, we emphasise one of the key aspects, i.e. we present them as grave crimes that come with the risk of harsh penalties or as a violation of human rights, with the right to freedom at the fore. It is quite common to stress both these aspects together. A relatively new approach is the socioeconomic one, which allows us

to look at human trafficking, and especially forced labour, from a labour market perspective (Andrees, Belser 2009: 3). However, the fourth dimension is equally important: the one that positions these negative behaviours at the civilisational level and requires that they are viewed as a negation of humanity and a misappropriation of the basic requirements of culture (Bales 2005). Thus, to properly understand human trafficking and forced labour, we must see them as very serious crimes, as violations of fundamental human rights (particularly the right to dignity), as a consequence of faulty regulation of the labour market, and, finally, as behaviour that does not fit within the canons of a civilisation that has been built over many decades on such foundations as equality, security, and humanistic values (Lasocik 2014).

The purpose of this article is to reflect on a different approach to understanding forced labour and a different operational definition of the phenomenon. Using Poland's experience in the fight against forced labour, I try to demonstrate the weaknesses of the 'official' understanding of the phenomenon and propose a new model for analysing it. The essence of this new approach is to change the language which we use to describe forced labour.

## Analytical framework

Forced labour and human trafficking are difficult for many people to accept, irrespective of age, education, legal knowledge, or historical experiences, because reducing a person to the rank of a commodity is contradictory to the elementary principles of people co-existing. On the other hand, among the many features of the crime of forced labour described in the literature, little is said about the fact that this behaviour is well hidden precisely because it is difficult to recognize it (Shepherd, Wilkinson 2020: 8) and because information about it is not expected by society. This is why some people willingly reject such 'bad' information in order not to feel uncomfortable, as mentioned above. Therefore, it is necessary to write and speak about forced labour and human trafficking as much as possible in order for people to reach the highest possible level of intellectual and mental readiness to accept the fact that such behaviour does take place in our midst. This accomplishment was possible in reference to environmental issues. Nowadays, hardly anybody turns away from information about the climate crisis.

Therefore, is it worth changing the language that is used to describe forced labour? Presenting this issue in political and criminological jargon may not guarantee broad societal interest. Could it be that the metaphor of 'modern slavery', used so extensively in the literature and in politics, is not the very best instrument to communicate with a mass audience (Ngwe, Elechi 2012; O'Connell, Davidson 2015; Broad, Turnbull 2018)? Let us note that Ricard-Guay and Hanley, whose

paper is featured in the monumental work edited by John Winterdyk and Jackie Jones, entitled one of the sub-chapters of their text 'Labour trafficking: Still under-detected? Or rather called by another name?' (Ricard-Guay, Hanley 2020: 292). The question marks in the title are quite telling and I interpret them as an invitation to a discussion. I am willing to take part in it.

It seems that all texts about human trafficking and forced labour have to contain a statement that this is a serious problem, the scale of the phenomenon is significant, and forcing people to work is a violation of the basic standards of a modern society. If we add that according to the most recent estimates the global number of victims of various forms of servitude is as high as 40 million (Global-slaveryindex.org 2018), whereas the number of identified victims does not exceed 100,000 (Trafficking 2019: 38), we can be certain that this is a grave problem which modern civilisation is simply not handling well. Human trafficking and forced labour are truly two of the most painful and urgent social problems of our times.

However, from the point of view of describing the phenomenon, there is also another observation, possibly more important – the fact that not all forms of human trafficking and forced labour enjoy the same interest from politicians, experts, and the media (Zhang 2012: 470). It goes without saying that most attention was and still is devoted to sexual exploitation, whereas forced labour is treated as a marginal phenomenon. However, numerous authors have noted with satisfaction that this situation is fundamentally changing and that forced labour is garnering the broader interest of researchers and analysts (Andrijasevic 2016: 60). This differentiation also greatly affects the quality and nature of national policies aimed at counteracting human trafficking and forced labour (Brysk 2010).

On the other hand, an interesting regularity can be observed, as mentioned in the introduction, that according to the estimates, the most common problem at the moment is forced labour, whereas the majority of the victims identified by law enforcement authorities are still victims of sexual exploitation (Trafficking 2014: 29; Data collection 2020: 16). This disproportion, even though unsurprising, is nonetheless an interesting phenomenon which may lead to scientific reflection and more in-depth studies. Nevertheless, I am interested in a slightly different research problem, the one that underlies the concept of this Special Issue and inspired the writing of this article. It is about the disproportion between the estimated scope of forced labour and the actual interest in the problem. This issue can be broken down into three research questions:

1. Why is the gathering of data on forced labour so slow compared with that on sexual exploitation?
2. Why is progress in eliminating forced labour negligible compared with that in sexual exploitation?
3. Why are many countries not interested in changing the situation?

The answer to these questions is not easy because trafficking in human beings and forced labour are phenomena that pose difficult challenges for the authorities of states and societies, regardless of their level of development or legal culture

(Nelken 2010). Moreover, it has serious implications for the practice of social life around the world. Although numerous experts have analysed this issue (Zhang, 2012), it is worth taking a moment to reflect, study it a little deeper, and broaden the scope of analysis. This is the original idea of this article, but I am limiting my role to posing questions – I am of the opinion that we should all be seeking answers. And because it is being published in Poland, perhaps it would be a good idea to use Polish experiences so that these research questions can be presented in the Polish context and the directions of research can be outlined.

In taking on this difficult task, I would suggest moving away from the legal definitions of human trafficking as outlined in the ILO Convention of 1930 (FLC 1930) and the Palermo Protocols (Protocol to Prevent 2000). To overcome the interpretative difficulties arising due to the nature of these definitions, I would like to also suggest that we depart from the established analytical scheme based on the AMP system (action, means, purposes). This concept works well as a phenomenological description of events, especially for the purposes of criminal justice, including the liability of perpetrators. On the other hand, this type of language is not very likely to reach politicians – and even less so average citizens – to the extent that the problem of forced labour would become the subject of their sincere interest and the basis for social dialogue.

This is why the *criminal justice* language should be enriched by looking at the problem from a perspective that can be described as humanistic, in the sense given to this term by sociology arising from the work of F. Znaniecki, G. H. Mead, J. Devey and W. I. Thomas. It is all about an approach that is strongly supported by the philosophical elements of social pragmatism (Mead 1934) and the treatment of the individual that is distinctive of symbolic interactionism (Krzemiński 1986). Pragmatism, which rejects idealism and behaviourism, made significant space for knowledge, particularly knowledge accumulated from social experience. Therefore, not only is human behaviour guided by ideas that organise the will or by stimuli coming from the environment, to which people respond, but an individual's actions are solving problems in communication with others based on collected information. This is why pragmatists argue that the mind and knowledge, together, facilitate effective action (Duncan 1969). And if so, perhaps the lack of in-depth knowledge and full understanding of the essence of forced labour limits the potential of our actions? This is why I am trying to replace the interpretation of the legal definition of forced labour with the interpretation of social reality seen through the resources of common knowledge (Shibutani 1961).

On the other hand, symbolic interactionism raised the social rank of the individual as a free, active, and creative entity. Human actions are not merely reactive, but are based on the current definition of the situation (Znaniecki 1971: 421). Thus, a description of this action must also take into account the point of view of the actor. This, in turn, fundamentally changes the social role of communication, which serves not only to convey content, but also to construct reality. Thanks to this, it was possible for the Chicago School to make such a fundamental breakthro-

ugh in the description of society and the genesis of crime (Lindsey, Beach 2000: 17). However, what is most important in interactionism is the role of meanings in stimulating action. To put it simply, people take specific actions based on the meanings they learn in the process of social communication (Blumer 1986). This observation may lead to the question, 'Does forced labour mean the same thing to everyone? What if it does not?' This will be discussed later.

Meanwhile, let us return to the question of why forced labour is predominant in the estimates and why the number of victims of sexual exploitation is predominant among the victims identified. The answer is not difficult, since it is much easier to identify a victim of forced prostitution than an enslaved and exploited worker. Police forces around the world monitor the sex industry because it is a useful source of operational information, and therefore it is not particularly difficult to ascertain the details of the status of sex workers. Where prostitution is illegal, it is even easier, because all that is needed is to arrest such persons from time to time in order to obtain useful information. Pimp informers also continue to be sources of information. Thus, identifying a victim of sexual exploitation is less of a problem for the police, provided that the police are willing. Identifying a forced labour victim, unless they are, for example, in a labour camp, is much more difficult because there is no operational control of the labour market. On the other hand, the structure of interests, wherein the migrant is interested in earning money and the dishonest employer in cheap labour, means that no-one is motivated to disclose any information. Also, a loss of independence or influence over working conditions is treated as an acceptable cost of migration (Szulecka 2012: 181). Finally, labour inspection services in many countries, including Poland, are quite ineffective.

However, the presented explanation is incomplete, as it abstracts from the essence of the behaviours that are the subject of our interest. To complete the picture, it is worth looking at the problem while taking into account the above-mentioned 'humanistic coefficient' (Znaniński 1968: 36) – to depart from the structural and normative definition of sexual services and forced labour in favour of an interpretative, semiotic approach (Sullivan 2009: 468). Then, the key descriptive category becomes the *symbolic visibility* of these phenomena, i.e. their meanings, which are determined during the process of social communication. Let us explain this term using two examples.

In these categories, commercial sex is symbolically very 'visible' because it undergoes the individual experience twice, so to speak. Firstly, the offering and buying of sexual services – particularly when it is illegal – is socially obvious as a violation of a legal norm. Anyone who does this is committing a crime. Therefore, it is relatively easy to collectively determine the meaning of such behaviour, and whether the individual was forced into it or not is not actually important. Secondly, commercial sex is a social taboo and is burdened with moral reproach, even when it is legal. In this case, ascertaining the negative meaning is also easy, because this very type of moral judgement is what determines it. If we follow the thoughts

of W. I. Thomas and assume that opinions and actions are a consequence of the interpretation and definition of a situation (Thomas 1975), we are likely to think of sex workers as sinners rather than victims of coercion. This is also because we are unable to imagine how brutal the methods used to force another person to provide sexual services must be.

Things are completely different with forced labour, because it is hidden by a ‘double invisibility’. The difficulty of eliminating forced labour as a criminal activity stems in part from the fact that it is very difficult to distinguish it from the exploitation of someone else’s work, which occurs, for example, in corporations (Ylinen et al. 2020: 13). Unlike paid sex, forced labour is well hidden behind the façade of work as a legal – and even very noble and glorified – activity. Yet, the history of the world had periods when work was a shameful and degrading activity (Sztumski 2017: 13). At present, at the level of meaning, we no longer have any doubt that work is something good and expected. However, forced labour is also invisible because those who take advantage of it make every effort to conceal it, using subtle and sophisticated methods of enslaving and taking control of their workers. This applies equally to working conditions, remuneration, and the legality of employment. On the other hand, an employee who, for example, does not have a work permit, will do everything to remain invisible, even in a symbolic sense.

## **Descriptions of two typical cases of forced labour in Poland and in Italy**

All these statements and hypotheses result from an analysis of publications, previous research, and experience with the functioning of systems for eliminating trafficking in human beings in Poland and in other countries. Now my intention is to establish whether, at least in part, what seems obvious on the level of theoretical analysis is confirmed in real life. To this end, it will be necessary to follow two criminal cases of forced labour. I chose one in Poland and another in Italy on the basis of a substantive criterion – they represent two popular models of enslavement through labour. In the first case, from 2004, the victim was a Vietnamese citizen, recruited by his compatriots in Vietnam and illegally brought to Poland and exploited here to work in a trade by other Vietnamese people. In this case, the source of the victim’s dependence was *debt bondage*, as he owed the perpetrators the money they had spent to cover the costs of his travel to Poland (the classic debt bondage mechanism). In terms of meaning, the victim defined his position as ‘no way out’ and accepted his fate.

The second case concerned a large group of Poles who had been recruited to work in agriculture in southern Italy by a Polish criminal group through newspaper and internet advertisements. In most cases, they were misled about the working

conditions and pay. Upon arrival they were forced to work, intimidated, and even beaten. In this case, the source of the enslavement was a legitimate fear of a very real threat. Additionally, the victims wanted to earn money, so they defined the submission and exploitation as rational – this is how the mechanism that combines knowledge, the mind, and emotions works.

Due to the analytical potential of both these cases and their undoubted educational value, I present them in a little more detail below.

### **Vietnamese citizen forced to work in Poland – work for debt**

This is the first case of forced labour in Poland – it happened in 2003 (III K 145/04 2003). The victim was Pham, a 44-year-old farmer from Vietnam, married with two children – 9 and 16 years old; he had a primary-school education and no other training.

There were three perpetrators. The first – Sinh – was a Polish citizen of Vietnamese origin. At the time of his arrest, he was 37 years old, married (to a Polish woman) with five children aged 1 to 7; he had a primary-school education. Before he was detained, he had been involved in commercial activities at city markets. According to the collected data, he did not have a criminal record.

The second perpetrator was a citizen of Vietnam living in Poland, Tien – 33 years old, married (to a Polish woman) with one child, aged 9; he had a secondary-school education and was a tailor by trade. Until his arrest, he sold clothing at open-air markets. He lived with his wife in her house. According to the collected data, he did not have a criminal record.

The third culprit was Duc, also a citizen of Vietnam, 40 years old, living in Poland. He was married with two children, aged 16 and 11, and a chef with vocational training. Before his arrest, he earned a living from commercial activities at city markets. He lived with his Polish wife. According to the collected data, he did not have a criminal record.

In January 2003, Duc left Poland for Vietnam. There, he contacted Pham, whom he offered to help him illegally get to Poland and then find a job for USD 3,000. The man agreed to this offer. Because he did not have the full amount, he borrowed money from his family and took out a bank loan. Still, he only managed to get USD 2,000. At this stage, Duc offered to lend him the missing USD 1,000, allowing Pham to work it off in Poland; Pham accepted this offer. Duc gave the money to the people responsible for organising the Vietnamese man's trip to Poland, but the identity of these people has never been established.

Pham's trip to Poland took place in April 2003 in several stages. First, he flew from Hanoi to Moscow by plane. At the airport in Moscow, he met a man ('European') who took his passport and then drove him and 12 other Vietnamese citizens by car to Minsk, Belarus. From there, they were all taken to the Polish border, and

on 8 April 2003 they crossed it illegally at night. Two men were responsible for this part of the operation – Pham also referred to them as ‘Europeans.’ The identity of these people has not been established.

After crossing the Polish border, the smugglers took the 12 individuals to Warsaw, to the then 10th Anniversary Stadium.<sup>1</sup> Pham, along with three others, was placed in the apartment of a Vietnamese citizen, whose job was to keep an eye on his fellow countrymen until the dues were settled. Once his family had given the traffickers the agreed sum (USD 3,000), Pham was released from the quasi-custody. For several weeks, he worked at a stadium fair, and then was moved to another apartment in the Świętokrzyskie Voivodship in south-central Poland. He lived there with three other Vietnamese people. All of them traded at local bazaars. In June, Pham received a fake driver’s licence from Duc.

Pham was forced to work by Duc and his family members. He did not receive any pay for his work, working off his debt (USD 1,000). Since Duc never specified how long it would take to ‘work off’ the loan, Pham asked because he wanted to send money to his family and pay off his financial obligations. In response, he was told that it would take approximately four to five years. When Pham expressed his displeasure, Duc sold him to his relative, Tien.

The new ‘owner’ did not pay Pham for his work either, arguing that he had bought him and that Pham now had to pay back the amount Tien had paid. Yet, on 10 August 2003, Pham was arrested by Border Guard officers as a result of a routine check at the city market in Kielce. The basis for his detention and subsequent arrest was that he was using a fake driver’s licence. During the inspection, Pham stated that he had come to Poland illegally along with a group of a dozen other foreigners, and that he had been forced to work and received no remuneration.

At the level of meaning, Pham’s situation was difficult because he had broken border regulations, worked illegally, and used fake identification. However, what raises the most reservations in this case is the conduct of the state authorities towards the victim of the crime of human trafficking for forced labour. On 8 December 2003, by a judgement of the District Court in Kielce, Pham was sentenced to eight months’ imprisonment for two crimes: illegally crossing the Polish border and using a forged identity document. The court suspended the sentence for a period of two years and released the defendant from court fees. Let us recall the context: it was 2003, the provisions on human trafficking had appeared in Polish criminal law in 1997, since 1996 a branch of the La Strada Foundation had operated in Poland (Lastradainternational.org n.d.; Strada.org.pl n.d.), and in Europe work was underway on the European Convention on Action against Trafficking in Human Beings, which includes a non-punishment provision for victims of human trafficking (Article 26).<sup>2</sup>

<sup>1</sup> At the time, the stadium served as a huge marketplace with a very poor reputation. Currently, the National Stadium – a sports facility – is located there.

<sup>2</sup> Article 26 – Non-punishment provision: Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties

It did not end there, because on 13 January 2004 the Border Guard Headquarters petitioned the court to arrest Pham for the purpose of deportation, claiming that 'his continued stay in Poland would endanger the rhythm and course of social life, which was ordered by way of legal regulations and free from disturbances. Anyone reading this justification now would feel embarrassed. However, as expected, the District Court in Kielce granted the request of the Border Guard, and Pham was arrested and then deported.

The perpetrators in this case were also convicted. The court found two of them guilty of human trafficking and sentenced Duc to three years and six months' imprisonment, and Tien to three years' imprisonment. In both cases, the prosecutor had asked for tougher punishment. The third defendant, the alleged organiser of this smuggling operation, was convicted of illegally possessing weapons, because the prosecutor did not prove that he had trafficked in human beings.

In conclusion we can state that this case features all the elements of human trafficking for forced labour and the imperfections of the criminal justice system's response to such a case. To start with, let us list the elements of the phenomenology of this crime: intra-ethnic recruitment (Arhin 2016), recruitment at the victim's place of residence, the typical mechanism of debt bondage, the smuggling of the victim to Poland via Russia and Belarus, the transformation of smuggling into debt-related human trafficking, passport seizure, imprisonment, exploitation of labour, deprivation of earnings, and passing of the victim between traffickers.

When it comes to the reaction of the system, we have accidental identification during a routine check, incorrect diagnosis of the victim's situation, deprivation of liberty for the illegal border crossing of a victim of human trafficking, no contact with an NGO, a conviction for a minor crime related to the victim's situation, the use of arrest for the purpose of deportation, and finally deportation.<sup>3</sup> This happened despite the fact that one of the procedural documents mentions that Pham asked to stay in Poland and earn at least a part of the money that the family had invested in his trip (Klaus 2017). On the other hand, the victim's departure from Poland deprived us of the possibility of learning his definition of the situation, something that is currently referred to as the *victim journey* (Victims 2018: 17; Journey 2019: 9).

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on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.

<sup>3</sup> This would no longer be possible under current migration law.

## ***Terra Promesa* (Promised Land), or mass enslavement of Poles in Italy**

A discussion of the second case is difficult, because its scale goes beyond the scope of the Introduction. However, I cannot help but present it, because it was the first case in which a well-organised criminal group created an effective system of mass recruitment and exploitation of Polish labour abroad. Also, the group's operations continued for nearly four years (2003–2006). Finally, since then, there has never been a case in Poland in which the number of victims was remotely similar – it is estimated that approximately 800 people were exploited. The case is known by its telling code name – *Terra Promesa* (III K 21/07 2013).

It all started in 2003, when Łukasz Z. (who later formed a criminal group), went to Italy and worked as a seasonal worker on vegetable and fruit farms. When he realised that the demand for labour was enormous, he created a simple business plan: one only needs to help Poles find such work and transport them abroad. In a very short time, Łukasz Z. and his wife had built a system that consisted of several elements:

1. a network of recruiters who advertised the possibility of working in Italy (usually via newspapers), answered phone calls from interested parties, and directed them to intermediaries;
2. a network of intermediaries who took over contact with interested parties and organised transport, usually by minibus, and collected money for the journey;
3. transport companies that transported the workers to Italy – such trips usually involved a 'guide' or 'guard';
4. private individuals, hired on occasion, who knew Italy and played the role of drivers and 'guides';
5. a group of organisers, whose task was to search for appropriate job ads and provide workers; these were often people living in Italy or working there long-term, who spoke Italian;
6. a group of men who can be described as 'disciplinary staff', whose task was to intervene in situations where the workers did not accept the working conditions or pay or when they demanded better housing or a return to Poland; these people included Poles and Ukrainians, but there was also an Italian of Moroccan origin and an Albanian;
7. a network of employers who colluded with a criminal group and paid the organisers for each worker, but offered terrible living conditions and low pay to compensate for the expenses incurred;
8. some employers who, although they used the services of the criminal group, offered decent living conditions and fair pay;
9. an unknown group of public officials – mainly officials of law enforcement and local authorities who colluded with the criminals. In the court proceedings that took place in Poland, it was not possible to form a credible picture of this

group of people; some of the victims spoke about corruption, and they are mentioned in the press.

In a typical situation, the group's *modus operandi* was as follows: an advertisement was published about the possibility of working in Italy, interested parties called the telephone number in the advertisement and found out about the conditions of the trip, i.e. the nature of the work, the cost of transport to Italy, the cost of job placement, and the fact that the employer provided accommodation but no food, unless an additional fee was paid. After agreeing the details, the recruiter put the person in contact with an intermediary, who set the date of departure and meeting place – providing, for example, the car's number plates – and informed the person how much money they should have with them (in EUR or PLN). At the meeting place, an intermediary appeared; they presented a forged employment contract with the seals of companies with names indicating that they were Italian companies (the contracts were often forged by Łukasz Z. himself or by one of his closest associates), collected the agreed amount, and placed the person in the minibus. Sometimes, a representative of the criminal network participated in such a trip, and sometimes the driver was the 'guide'. After arriving, the workers were left with a specific employer, and this is where the situation becomes more complicated, because there were several possible scenarios.

First scenario: the employee immediately realised that the living conditions were unacceptable (for example, dirty mattresses in a dilapidated house and sanitary conditions that violated human dignity) and called the intermediary to request changes, or returned to the car (bus) and asked to be taken elsewhere. If it was impossible to find such a place, the worker returned to Poland, and had to pay EUR 50–100 for the return. Those who did not have the money had to ask their relatives to gather the appropriate amount or make a transfer to a bank account.

Second scenario: the employee remained at the location and only after the bus departed realised what the accommodation, working conditions, and remuneration were like. In extreme situations, deductions for costs meant that employees earned EUR 1 per hour. To avoid the first scenario, the criminals deliberately drove the workers to the location at night. If the conditions were unacceptable, the worker called the intermediary or organiser, who usually refused to intervene after only one conversation. After further phone calls, intermediaries took some sort of action and, for example, transported the employee to another employer, where the conditions were the same or worse, or offered a return to Poland for an additional fee.

Third scenario: the employee remained at the location, but discovered very quickly that the workplace was a type of labour camp, where people were supervised or deprived of liberty, forced to work excessively, and punished for the slightest offence or low productivity. The supervisors were both Poles and citizens of other countries (Ukrainians) who intimidated the employees and used violence, some of whom carried firearms. There was also a reduction in wages to a level that meant the victims worked almost for free. In such a situation, phone calls to intermediaries did not bring about any significant results. The only way out of the situation was to

run away, and many opted for this solution – some of them stayed in Italy looking for a job on their own, whilst others returned to Poland.

Fourth scenario: this scenario was a mutation of the third, where it sometimes happened that the phone call to the intermediary or organiser proved to be effective or that circumstances brought about their intervention. For example, the victim managed to contact their family in Poland, who in turn put pressure on the members of the criminal group in Poland. Then the organiser demanded an additional fee for finding a new job, or placed the employee in another location that was only slightly better than the previous ones. Some workers quit altogether and then had to cover the costs of returning to Poland. Some returned on their own after their release.

Fifth scenario: some workers found employers who provided them with decent living conditions and remuneration in line with the agreed amount. These people were successful and after some time returned to Poland, either through a criminal group or on their own.

We should add that the available information shows that none of the victims contacted the Italian police or any other authority. Similarly, no-one directly reported the situation to the Polish police. This can be explained quite simply. Firstly, the recruitment model – and especially the way illegal work/labour was organised – made the victims afraid to turn to law enforcement or any other services for help. Secondly, in almost all cases, the instruments of victim control were the implicit threat and progressive deprivation of key needs. I think the two elements come together and create a state that can be described as a frozen-will effect, leading directly to submission, and even to a kind of fatalism. It was not difficult to fall into this state, because the victims did not know Italian and those brought at night often did not even know where they were. This made them vulnerable to deteriorating living conditions and lowering of pay under the smallest pretext, which we know as a *continuum of exploitation* (Andrees 2008). Add to this the lack of money, and we have a situation of complete enslavement.

In conclusion, one can say that the criminal practice of exploiting Poles who are unsure of their legal and factual situation was effectively hidden behind the façade of legal employment in Italy. The pathology arose at the intersection of two important social needs, i.e. the financial needs of Polish workers and the demand for labour among Italian farmers. In all respects, an important and socially desirable business activity combining these two needs only turned into a criminal activity because one important element of the employment relationship was eliminated: the legality of employment and full clarity and transparency of the contract (Ihrb. org n.d.).

## **The reaction of public authorities to cases of forced labour – example of Poland**

Taking into account purpose of this article and the assumptions adopted above, I will now present a few facts that illustrate the reaction of the Polish authorities to the described cases, seeking an answer to the question of why this reaction was so limited, or in some respects even missing.

More than fifteen years have passed since the first criminal case of forced labour in Poland, and over five years since the disclosure of the cases of exploitation of Poles in Italy. Thus, a reasonable question is whether the Polish authorities used this time properly. Have these two cases aroused a real interest in forced labour from the authorities, civil society, and public opinion in Poland? Has the resulting knowledge re-orientated human actions? Do we know enough thanks to these forced labour cases to deal with this problem well? Can we see significant progress in eliminating this phenomenon at the level of social life? The answers to many of these questions are still out of our reach, although some of them can already be answered in the negative.

On the other hand, the cases presented herein did have an impact on the level of awareness of law enforcement agencies and citizens. The Vietnamese case was almost completely overlooked by the media, but it was commented on by public officials and experts and also quoted in scientific studies (Lasocik 2006: 252). On the other hand, many Polish media outlets wrote about the Poles abused in Italy, often in a very emotional way. Articles often mentioned that Poles were sent to 'labour camps', which has very specific connotations in the country that saw the Holocaust, Auschwitz, and Treblinka.

However, none of these cases resulted in concrete actions by the authorities. The lack of interest in the issues around forced labour resulted in the fact that on 11 March 2010, the Human Trafficking Research Centre organised the First National Meeting on the Elimination of Forced Labour in Poland. The meeting was attended by representatives of the National Labour Inspectorate, the Ministry of the Interior and Administration, the Police, the Border Guard, the Public Prosecutor's Office, the Ministries of Labour and Social Policy, the Office for Foreigners, non-governmental organisations, including the La Strada Foundation, and independent experts and researchers.

The participants of the meeting agreed the following:

- the system, including the legal system, is not fully adapted to solving the problem of forced labour
- there is an urgent need to formulate solutions that will guarantee the effectiveness of specific institutions
- Polish criminal law does not penalise forced labour
- the powers of the National Labour Inspectorate are too narrow to be effective

- there is no effective network of full-time forced labour coordinators in the regional Police and Border Guard units
- it is necessary to allocate funds for professional staff training
- there is no institution in Poland that could assume a leadership role in the difficult task of eliminating forced labour
- the infrastructure of NGOs dealing with the issue of forced labour in Poland is far from sufficient
- state authorities and local governments should create organisational and financial solutions that would allow the situation to be changed
- a weakness of the institutional system is the lack of competence in the field of intercultural dialogue

The participants of the meeting also adopted a resolution in the form of a memorandum (Memorandum 2010), which was submitted to the state authorities. In this document, they highlighted the urgent need to take a number of specific measures, the most important of which are:

1. involving the real interest of state and local authorities in the issue of forced labour,
2. conducting thorough studies and analyses of this problem,
3. taking steps to create a system for identifying victims and eliminating forced labour in Poland,
4. guaranteeing the participation of trade unions and employer organisations in this process, and
5. creating a support system (including financial support) for citizen activity within the civil society.

Even though 10 years have passed since that meeting, all of the above remarks are still valid: although the diagnosis was accurate, none of the recommendations have been implemented. The fact that the elimination of forced labour in Poland has been and is ineffective is confirmed by the reports of the GRETA Group of Experts of the Council of Europe, which visited Poland in 2012 and 2016. In the documents that followed their visits, the GRETA experts expressed critical opinions on the operation of state services and on the level of knowledge about forced labour. In the report after the first visit, the GRETA Experts wrote that

trafficking for the purpose of labour exploitation in Poland is on the rise, in particular from Azerbaijan, China, Nepal, the Philippines, Vietnam, Bangladesh, and other Asian countries. However, although many foreigners have been found victims of labour law violations, only a few have been identified as victims of trafficking for forced labour. As regards Polish nationals trafficked abroad, the types of exploitation in recent years have involved sexual exploitation, forced labour in the agricultural sector, domestic service, benefit fraud, and using victims' documents to establish false bank accounts and credit agreements (GRETA 2013: 10).

As for the specifics of forced labour in Poland, GRETA stated that ‘it is difficult to indicate which sectors of the Polish economy are mainly affected, but according to various sources, THB [trafficking in human beings] for forced labour occurs mainly in agriculture, construction, food processing, agriculture, and domestic help’ (GRETA 2013: 23). Elsewhere, there is the following recommendation: ‘It is [...] necessary to step up the gathering of intelligence and the sharing of information between relevant actors as regards detecting cases of THB for forced labour’ (GRETA 2013: 36).

After four years, GRETA once again visited Poland. The report noted that ‘there are gaps in the Polish anti-trafficking framework and forced labour is still not adequately addressed’ (GRETA 2017: 16). The GRETA experts also noted that ‘there is a lack of effective mechanisms to check whether companies meet the basic conditions for the elimination of forced labour and only a few Polish companies have codes of conduct for socially responsible production or service’ (GRETA 2017: 22). Regarding the prosecution of perpetrators, we can read that

GRETA was informed that some cases of forced labour detected by labour inspectors had not led to prosecutions. An example was given of a case of Ukrainian workers employed to dig ditches in freezing temperatures who were locked in a cellar during the night, which was reportedly not prosecuted. [...] the Criminal Code contains no provision criminalising forced labour [...]. However, the National Labour Inspectorate has expressed the view that forced labour should be criminalised as a stand-alone offence as this would make prosecutions easier (GRETA 2017: 39).

Finally, GRETA formulated a very unambiguous recommendation to the Polish authorities:

GRETA is concerned by the rather low number of convictions for THB and urges the Polish authorities to take measures to ensure that THB offences are prosecuted as such, and lead to effective, proportionate, and dissuasive sanctions, including by reviewing the existing legal provisions and court rulings on forced labour with a view to extending the scope of forced labour to include working conditions contrary to human dignity in line with the ILO indicators of forced labour’ (GRETA 2017: 40).

The second foreign institution that regularly assesses Poland’s progress in combating human trafficking and forced labour is the US Department of State, which publishes annual reports (TIP reports) (State.gov n.d.). In the 2019 Report, Poland was dropped from the list of countries that effectively eliminate human trafficking (Tier 1) to one of the countries that are deficient or negligent in this matter (Tier 2) (Ricard-Guay, Hanley 2020). The allegations included ones that directly referred to forced labour. Here are two examples: ‘Police and prosecutors, however, acknowledged authorities lacked the expertise to identify forced labour

victims and child victims’ (Trafficking 2019: 384) and ‘there was no clear definition of what constitutes forced labour in the Polish criminal code; and prosecutors and judges often lacked expertise in labour trafficking cases’ (Trafficking 2019: 384). The State Department also made a number of recommendations to the Polish authorities, the first of which is as follows: ‘Vigorously investigate and prosecute trafficking crimes, particularly forced labour cases, and increase training for law enforcement and prosecutors on evidence collection’ (Trafficking 2019: 383). In June 2020, another TIP Report was published (Trafficking 2020), in which the Department of State kept Poland in Tier 2 and reiterated a number of allegations made in the 2019 Report. There is no need to cite them again.

In conclusion, let us note that 17 years have passed between the first case – in which a Vietnamese citizen fell victim to forced labour – and the most recent TIP Report published; 15 years have passed since the first media reports on the mass exploitation of Poles in Italy. However, the problem of forced labour is still present and is a serious challenge. Of course, it exists and is a challenge everywhere, but in Poland, forced labour has never become a subject of real interest from the authorities, serious public debate, or appropriate systemic changes. Moreover, Poland is openly criticised for its lack of progress in eliminating this phenomenon. This is a particularly difficult issue if we take into account the changes in Poland’s external environment, i.e. the actions taken by the UN, ILO, European Union, and Council of Europe. Of course, we cannot say that nothing has changed during this time; however, the changes are by no means adequate to the passage of time and the needs of a country such as Poland. And these needs are special, because Poland is the country of origin of victims of forced labour exploited in Western Europe, a destination country for victims coming from Asia or Ukraine, and finally a transit country for victims from the East being taken to Western Europe (Lasocik 2019).

When it comes to assessing the scale of the phenomenon, it is a real challenge. According to the 2018 Global Slavery Index (Globalslaveryindex.org 2018), there are an estimated 128,000 victims of slavery in Poland;<sup>4</sup> however, based on the available data we can say that the number of identified victims is less than 200 per year (National Action Plan 2020). This is also an approximate number, because in Poland there is no uniform system for gathering data on human trafficking and forced labour. Out of necessity, the sources of information are national action plans and reports published irregularly by the Ministry of the Interior and Administration (handelludzmi.eu n.d.). However, they present data in such a way that does not form a clear picture. In the latest such report (2017), we can read, for example, that the police identified 84 victims and the Border Guard identified 43 victims (a total of 127 people), but it is unclear whether these figures are comparable.<sup>5</sup> On the other hand, the prosecutor’s office recorded 129 victims of human trafficking, but since these two numbers are different, it is not known whether the same people were

<sup>4</sup> The 2016 Global Slavery Index Report put the number higher – at 180,000 people.

<sup>5</sup> This may include, for example, whether the aggrieved individual has been officially recognised as a victim.

identified by both the police and the Border Guard. However, according to data provided by La Strada – an NGO that supports victims of human trafficking – in 2017, it provided support to 187 victims.<sup>6</sup> We should add that the report of the US Department of State shows that in 2018–2019, the National Labour Inspectorate did not identify a single forced labour victim in Poland (Trafficking 2020: 410). Finally, there is information that shows the context of this data: the government website on human trafficking under the ‘Forced Labour’ tab features information about the events of 2010–2011 (Wykorzystanie 2020). On the other hand, attempts by the Human Trafficking Studies Centre at the University of Warsaw to obtain funding from the National Science Centre for an in-depth study of the issue did not garner the interest of that institution.

## New analytical model

It seems that the information presented above constitutes further reasons for the argument that interest in the issue of forced labour is still limited, and that progress in eliminating this phenomenon is modest (Bateman 2020). Everything points to the fact that unlike sexual exploitation, forced labour is quite effectively protected from being recognised. Finally, it turns out that the knowledge we acquire translates only to a limited extent into specific actions and more effective law enforcement systems.

Against the background of these claims, there seems to be an assumption that if there is a problem, it should be explored through data collection and the absorption of knowledge about forced labour by public services, which either do not exhibit enough determination in this regard or demonstrate incompetence. There is probably a lot of truth in this, but perhaps we should also look from another perspective. Shouldn't we be asking about the quality of the picture of forced labour we have? Perhaps the description of the phenomenon and its interpretation are flawed, and that is why they do not sufficiently convince the government to change the practice of the state apparatus. Perhaps what we know does not mobilise society to act in such a way as to be able to better identify victims and provide them with effective support. In this way, we focus on issues such as the limits of scientific discovery, agreeing on the meanings of social phenomena in the communication process, and the intensity and style of public debate on forced labour.

To join this new trend of research and enhance reflection on human trafficking and labour exploitation, I propose a five-factor model for the description and analysis of these phenomena. In creating this tool, I departed from classic, legal definitions (Andrees, Belser 2009; Lasocik 2014) and instead looked at the problem

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<sup>6</sup> These people also include those who applied to the Foundation but did not report to law enforcement agencies, and so were never registered by them.

from the theoretical perspective which I outlined in the introduction of this article, referred to as the humanistic perspective. Therefore, instead of examining whether the specific behaviour of the perpetrators constituted human trafficking within the meaning of the Palermo Protocol or forced labour under the ILO Convention, let us define the situation the victim found themselves in based on established societal meanings, whilst bearing in mind that these meanings are modified through interpretation by individuals in certain situations (Blumer 1986: 2). A chair is not always presented and perceived as something to sit on.

From this perspective, the approach presented here is embodied in the question of whether a corporate employee who, under peer pressure, takes out a mortgage to purchase a home in a ‘better neighbourhood’ and then works 12–13 hours a day to pay it off is in a fundamentally different situation to the Vietnamese citizen mentioned above who was exploited by his countrymen? Of course, such a question has only a scientific value, because from the legal perspective the matter is obvious. But does the legal perspective alone suffice? Without prejudging anything, I pose this question to myself and to all those who would like to continue in this direction. My task here and now is limited to outlining this perspective and creating a model that can be helpful in research. In order to assess its diagnostic value, I compare forced labour with sexual exploitation and begging as the most popular forms of human trafficking. The model is outlined below.

The first item is *exploitation*. Being aware that this term raises serious doubts and controversies (Plant 2009), for the purposes of this argument, this issue boils down to determining whether the perpetrators aim to exploit the victim’s vital forces, body, or intellect for their own benefit. The answer is affirmative for all three tested forms of human trafficking.

The second element is *façade*, i.e. the existence or non-existence of some cultural ‘curtain’ behind which the behaviour we are analysing is hiding – in fact, not the behaviour itself, but its negative manifestations. In the case of forced prostitution, there is no such façade, because sex work, irrespective of whether it is legal or illegal, is culturally frowned upon. It is similar with begging, because at the societal level, this is a phenomenon that is difficult to accept. On the other hand, forced labour effectively hides behind the ‘curtain’ of labour as the most praiseworthy behaviour of modern mankind (Weber 2001).

The third element is *cultural taboo*, which removes some behaviours from the view of the public and the authorities, whilst making others even more visible. In almost all cultures, irrespective of the legal regulation model, the paid provision of sexual services is a moral and social taboo (Green 1989: 525). This has not always been the case. In antiquity, in countries such as Babylon, Phoenicia, Persia, Greece, and India, prostitution existed and was widely respected and sacred (Rosner 1998; Beard, Henderson 2002; Shingal 2015), which in some cultures and mythologies (Egypt or Japan) was treated as a form of hierogamy, i.e. sacred marriage (Sacred prostitution n.d.). Current moral taboos render the people who provide such services in a completely open manner – making it their own way of life – a minority.

On the other hand, begging is marked by extreme poverty, which modern society is ashamed of, and perhaps even fears. Beggars' taboos are a mixture of shame, sympathy, and the rejection of deviation (Gore 1958: 23). Even if some religions have an obligation to give alms, a beggar is still a visible sign that something has gone wrong in the striving for social equality (Martyres 2007).

Work is not only not covered by any taboo, it is also something noble, and in many cultures is treated as the most praiseworthy way of achieving financial success. Sometimes it was even treated as a condition of an individual's full membership in society (Baillie 1911: 249). However, this has not always been the case. In ancient times, it was something shameful, even disgraceful, and put people who work professionally at the bottom of the social hierarchy. In the era of slavery, work, as a burden and toil, was pushed onto the backs of slaves, who in some cultures (Greece) were treated as talking tools (Sztumski 2017: 12). It is only recently that work became praiseworthy.

The fourth element is symbolic visibility, which is understood as the availability of certain behaviours to common perception, and their susceptibility to having meaning imparted on them. It can be said that it is the sum of the 'façade' and 'taboo', where the lack of a 'façade' and a strong 'taboo' make something clearly visible. It is relatively easy to correctly interpret forced prostitution and begging as highly visible and at the same time burdened with a cultural taboo. In the case of forced labour, which is deceptively similar to normal work, this is not the case. For this situation to become different, the model of communication would have to change drastically, because meanings are its result. However, are contemporary societies ready for this?

And now finally, we come to the fifth factor, which I tentatively describe as the level of subtlety of control measures. Forcing another person to provide sexual services against their will is difficult, because the realm of personal sexuality is the best-protected area of human activity. People who do not want to do this are ready to sacrifice their health and even life for the sake of their own autonomy. Forcing such people to prostitute themselves is only possible if the pressure mechanism is effective enough. And this is the case, for example, with drug dependence of the victim or when the safety of loved ones is at stake. I do not know how many women are able to refuse cooperation with traffickers when their children are in danger of being beaten or raped. Forced begging is not necessarily any less drastic. In Poland, there was a case of a criminal group that forced women to beg with children who sometimes were not their own (Wieczorek 2017: 251). The brutality of the control methods meant that some children were taken from their mothers and begged with someone else. This resulted in completely effective control. The situation is vastly different in the case of forced labour. Here, employers who intend to successfully exploit victims for a long time do everything they can to make the mechanisms of enslavement and creating dependencies as subtle as possible. The system works very well when the social business environment is unable to recognise pathological symptoms in the treatment of employees. Going further, the system works perfectly

when the employees themselves are convinced that what they are experiencing is necessary or even right, particularly if they are foreigners. This effect cannot be achieved by violence or the threat thereof, but by a very subtle manipulation that makes the employee completely unaware of falling into the above-mentioned spiral of dependence referred to as the ‘continuum of exploitation’ (GRETA 2013).

## Conclusion

Recently, forced labour has attracted public attention around the world,<sup>7</sup> even though for years it remained somewhat in the shadow of sexual exploitation. When it was mentioned by politicians and experts, it was most often presented as a migration problem that threatened the economic stability of a given country (Trafficking in persons 2020: 11). Since it was partly illegal migration, forced labour was ultimately equated – or rather confused – with the smuggling of people (Forced Labour 2002: 3). And since this was the case, it was also treated as one of the most important challenges for the security of states (Forced Labour 2002: 3) or regions. This is particularly true because smuggling and exploitation of labour were related to the criminal activity of well-organised syndicates involved in human trafficking (Global Report 2009: 43). The issue of terrible working conditions (Questions 2012), which are an inseparable attribute of modern slavery, appeared quite late in forced labour analyses and research. And even later, experts tackled the problem from a purely economic perspective (Profits 2014), which may mean, for example, examining the consequences of slave labour for market mechanisms (for example, free competition). Another dimension of the economic approach is looking at forced labour from the perspective of the labour market (Ending 2019), and more as a need to protect the labour market from slave labour or the market’s reaction to its presence. Although forced labour usually occurs in private companies, part of the phenomenon still remains within the domain of states (Global Estimates 2017: 11). It is hoped, however, that the volume of work forced by authoritarian and totalitarian authorities will be constantly reduced thanks to the fact that this issue is making its way into the political debate (Global Estimates 2017: 41; Ending 2018: 35). Let us also note that the gender perspective is increasingly present (Hennebry 2016); an inseparable component of it is a focus on sex and on the psychological effects of enslavement.

This broad and rich palette of perspectives is not yet complete, as it lacks the approach that has been discussed extensively herein and which Polish sociologist Florian Znaniecki called the ‘humanistic coefficient’ (Znaniecki 1968: 36). Our

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<sup>7</sup> As examples of the growing interest of state authorities, one can mention the British Modern Slavery Act of 2015, the French Duty of Vigilance Law of 2017, or the Australian Modern Slavery Act of 2018.

knowledge of forced labour will be further enriched if we introduce into the debate the element of symbolic meanings attached to actions, namely, the core of communication between people. Accepting this perspective, let us try to approach forced labour as a form of sophisticated manipulation that is very strongly present in modern society (social media are an example). In both of the criminal cases described herein, it was manipulation that was the key instrument of enslavement and exploitation. Clearly, for this approach to make sense, forced labour cannot be seen only as a 'contemporary form of old slavery', but as a new and even very 'modern' social phenomenon. A phenomenon in which uncritical trust in sources of information, faith in the good intentions of others, and the desire to improve one's own fate make even adults and well-educated people fall prey to criminals trading in human lives.

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