



DIRECTORATE-GENERAL FOR EXTERNAL POLICIES
POLICY DEPARTMENT



ADDRESSING CONTEMPORARY FORMS OF SLAVERY IN EU EXTERNAL POLICY

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DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION

DIRECTORATE B

POLICY DEPARTMENT

BRIEFING PAPER

ADDRESSING CONTEMPORARY FORMS OF SLAVERY IN EU EXTERNAL POLICY

Abstract

Contemporary slavery is the exercise of the powers attaching to the right of ownership--control over a person by another such as a person might control a thing. There are an estimated 30 million slaves in the world today, including 1.1 million slaves in Europe. Recognizing that human trafficking is not in itself slavery, but rather a mechanism or conduit that brings a minority of the world's enslaved people into slavery, the EU should shift its focus very clearly from trafficking to slavery. EU anti-slavery efforts might include new research, trade agreements targeting slave-made goods that enter the European economy, and slavery inspectorates in Member States. This more comprehensive strategy should not be limited to trafficking victims but also aimed at the many people who are enslaved without a trafficking process. The EU must think bigger than it has done so far and aim for a slave-free Europe and eventually a slave-free world. It is not possible to fully separate internal from external policy with regard to the EU's response to human trafficking and modern slavery, and so this report attempts to demonstrate the link between the two and recommend specific actions.

This briefing paper was requested by the European Parliament's Subcommittee on Human Rights.

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EXECUTIVE SUMMARY

1. Defining Contemporary Slavery

Because of the varying definition of slavery and human trafficking currently used in the laws of different countries and international bodies, we recommend the *Bellagio–Harvard Guidelines* (2012) which use the definition of slavery found in the 1926 Slavery Convention: 'Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.' As legal ownership rights are no longer asserted by slaveholders, the exercise of 'the powers attaching to the right of ownership' should be understood as possession: 'control over a person by another such as a person might control a thing.' Therefore, slavery is 'controlling a person in such a way as to significantly deprive that person of individual liberty, with the intent of exploitation through the use, management, purchase, sale, profit, transfer or disposal of that person.' If there is to be coherent enforcement of law across nation states, a common definition of this crime is advisable. We appreciate the difficulty that re-drafting existing laws presents.

2. Contemporary Slavery Issues Confronting the EU

There are about 30 million slaves in the world today, including an estimated 1.1 million slaves in 37 countries in Europe, with the largest numbers in the Russian Federation, the Ukraine and Poland. In most European countries more than 90% of human trafficking/slavery is unidentified in official data and estimates. A large portion of these unidentified victims consists of people trapped forced labour (enslavement outside the sex industry, in agriculture, factories, mines, domestic service, construction, hospitality, and numerous other sectors). There exist very few assessments of trafficking for forced labour and the problem of identifying victims is particularly acute. Within its external policy the EU already works to support and augment human rights within non-EU countries. Its existing programmes aimed at reducing discrimination and establishing the rule of law are essential to combating human trafficking outside (and to) the EU.

3. The EU Response, including *The EU Strategy (2012-2016)*

One hindrance to the process of ending slavery is that the EU's agenda does not yet emerge from reliable data. The National Rapporteurs should initially focus on gathering data and the EU and Member States should begin using random sample surveys, or possibly multiple systems estimation, in a systematic way. Another hindrance is the EU's current focus on trafficking rather than slavery. We recommend that the EU cease referring to trafficking as slavery, recognize trafficking as a method by which a minority of the world's slaves are brought into enslavement, and refocus the agenda as one of ending slavery in Europe and supporting the eradication of slavery in non-EU countries. The international and cross-border nature of trafficking into slavery, especially for the most developed countries of the world, means that internal policies must be adjusted and acted upon to have an impact on the external conditions generating enslavement.

4. The Role of the United Nations in Ending Slavery

The EU could make the following suggestions to the Office of the United Nations High Commissioner for Human Rights (OHCHR): that OHCHR propose to the UN Secretary-General the appointment of a Special Representative of the Secretary General for Slavery; that OHCHR propose to the Security Council a contribution of resources to the Special Representative; that the UN Human Rights Council appoint a committee of experts to review existing slavery conventions and recommend how to unify them; that OHCHR propose to the Security Council a commission to determine how the existing UN inspection mandate could be applied to slavery.

5. The Role of the Private Sector in Ending Slavery

Attention to supply chains needs to be a key part of the EU's anti-slavery approach, including its external policy. We recommend that the EU design a law similar to the California Transparency in Supply Chains Act of 2010 which EU member states are encouraged to incorporate. An EU Directive on Transparency in Supply Chains would increase companies' accountability and encourage them to be proactive in addressing slavery through compliance systems. The EU could also bring together businesses and consumers who benefit from a commodity or product to clean up its product-chain. Acting as an 'honest broker' in this way has been proven to be a successful way to bring cooperation between, and resources from, businesses leading to significant and sustainable reduction of goods and commodities tainted with slavery in supply chains reaching into Europe. At a higher level the issue of slavery in the supply chain should be dealt with in the governance of international trade.

6. Further Recommendations for the EU and EP in Combating Contemporary Slavery

We suggest among other things: national anti-slavery plans for Member States that include supporting the formation of local taskforces; increased research and information sharing, centralised by the EU; a law that slave-made goods may not be imported into, exported out of or traded within the EU; slavery inspectorates within Member States; uniform training guides for law enforcement and other individuals; a systematic regulation of labour recruitment agencies, especially within non EU-countries that have high immigration levels into the EU; public awareness campaigns that uses non-paternalistic imagery; the inclusion of anti-slavery support in the external human rights, business, and women's empowerment activities of the EU, and the widespread adoption of a slavery lens (a systematic deployment of existing instruments against slavery).

1 DEFINING CONTEMPORARY SLAVERY

A clear definition of slavery is essential because its variety of forms can obscure its underlying nature. Both slaveholders and communities that turn a blind eye to slavery have hundreds of ways to conceal and justify this crime. Religion, 'willing' participation, token 'payments,' the apparent acquiescence in a 'contract,' or any number of rationalizations can be used as part of the societal or community discourse around the slave / slaveholder relationship. There are families who have been in slavery for generations, and people who were enslaved last week. There are governments that enslave their own citizens, and there is slavery that arises in the context of armed conflict. All of these various forms of slavery have an impact on EU external or internal policies or both.

But the definition of slavery has been controversial since the beginning of the abolition process and the international community's inability to clarify a definition has not helped in working towards slavery's eradication. No international agreement has been completely effective in reducing slavery, within states or globally. This stems in part from the evolution of slavery agreements and the inclination on the part of the authors of conventions to include other practices as part of the definition. What has been missing is a classification that is dynamic and yet sufficiently universal to identify slavery no matter how it evolves. If the EU is going to be effective in addressing slavery both externally and internally, it would be helpful to develop and lead an international consensus on what practices constitute slavery. If slavery is defined in a way that includes phenomena across the breadth of social injustice or human rights violations, its meaning becomes diluted, leading to a diffusion of anti-slavery and causing anti-slavery resources to be spread thinly across many areas, some of which may be less clearly linked to the core types of human bondage.

We recommend that the EU consider the definition put forward in the *Bellagio–Harvard Guidelines on the Legal Parameters of Slavery*, written by the Members of the Research Network on the Legal

Parameters of Slavery in 2012 (a network of 20 scholars of international law, anti-slavery leaders and leading scholars of slavery), which use the legal definition of slavery found at Article 1(1) of the 1926 Slavery Convention. The 1926 definition reads: 'Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.' This definition is reproduced in substance in Article 7(a) of the 1956 UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, as well as in the Article 7(2)(c) of the 1998 Statute of the International Criminal Court and is developed in more detail in the secondary legislation of the Court, in its Elements of Crimes. As legal ownership rights are no longer asserted by slaveholders, the Bellagio–Harvard Guidelines state that today, the exercise of 'the powers attaching to the right of ownership' should be understood as possession: **'control over a person by another such as a person might control a thing.'** Therefore, 'slavery' may be defined as 'controlling a person in such a way as to significantly deprive that person of individual liberty, with the intent of exploitation through the use, management, purchase, sale, profit, transfer or disposal of that person.' The exercise of any or all of these powers attaching to the right of ownership should provide evidence of slavery, insofar as they demonstrate control over a person tantamount to possession. This definition provides the type of legal certainty which is fundamental to any prosecution of contemporary slavery¹.

It also captures the factual reality of slavery and requires us to look closely at the core characteristics of an enslaved person's life, to see that slaves have lost free will, are under violent control, are economically exploited, and are paid nothing beyond subsistence. Nearly every culture and historical period has known slavery, and it has been 'packaged' differently at each time and place. A dynamic change in packaging occurs, for example, when slavery is legally sanctioned, when that sanction is removed, when different notions of racialization emerge, or when the price of slaves goes up or down. People may be kidnapped or captured, tricked or born into slavery, and the contextual explanation of why they end up in a state of violent control may be political, racial, religious, mythological, gender-based, ethnic, or combinations of these. They might be trapped in slavery linked to religious practices or state-sponsored forced labour. But the true nature of slavery does not exist in its 'packaging,' justification, or origin point. Across human history, slavery's core characteristics are the same: people are controlled through violence, used to make money, and lose their free will. Now as in the past, enslavement means that a person no longer has control over the following elements of their life for a period of time: what type of work they do (their livelihood); their work environment and conditions; and their freedom of movement in the context of this work. Any situation that leads to this lack of freedom needs to be covered in national and international law.

When considering a situation of extreme exploitation, it is important to ask: 'Can this person walk away?' A key marker of enslavement is the loss of free will and free movement. It is important to remember that violent control does not always involve *physical* violence: any attempt to escape may be rendered unlikely through threats and psychological coercion (as well as deceit and the confiscation of passports

¹ For the full Bellagio–Harvard Guidelines, see Jean Allain (ed.), *The Legal Understanding of Slavery: From the Historical to the Contemporary* (Oxford University Press, 2012), 375-380, also available at: <http://www.qub.ac.uk/schools/SchoolofLaw/Research/HumanRightsCentre/Resources/Bellagio-HarvardGuidelinesontheLegalParametersofSlavery/> (retrieved on 3rd December 2013). The Bellagio–Harvard Guidelines are similar to the definition put forward in the *Joint UN Commentary on the EU Directive* of 2011. Taking the 1926 definition ('the status or condition of a person over whom any or all of the powers attaching to the rights of ownership are exercised') the UN Commentary adds: 'The definition in the Slavery Convention may cause difficulties today, as there could be no rights of ownership for one person over another. In order to solve this difficulty, an alternative definition would be 'the status or condition of a person over whom control is exercised to the extent that the person is treated like property,' or 'reducing a person to a status or condition in which any or all of the powers attaching to the right of property are exercised.'" See *Joint UN Commentary on the EU Directive – A Human Rights-Based Approach* (2011), 103. For further discussion of the definition of slavery, see most recently Jean Allain and Kevin Bales, 'Slavery and Its Definition,' *Global Dialogue* 14.2 (2012): 1-15.

or legal documents). Slaves often know that their enslavement is illegal. Force and psychological coercion have convinced them to accept it. They come to perceive their situation not as a deliberate action taken to harm them, but as part of the normal, if regrettable, scheme of things.

It is also important to add that slavery is not a matter of time. Slavery need not be permanent or life-long. That has never been a requirement, even when slavery was legal. The ancient Babylonian law and the Louisiana Slave Code both allowed for temporary enslavement. For thousands of years people have been captured, coerced, tricked, sold, kidnapped, drugged, or brutalized into slavery, and have then managed to make their way out through any number of exits. Some were released when their health and strength broke down and they were no longer useful. Sometimes escape took decades and sometimes just weeks, but that did not change the fact that the person had been a slave. The same is true today.

Globally, today's slavery is most prevalent in three forms. One form is **chattel slavery**, where a person is captured, born, or sold into permanent servitude, and ownership is often asserted. This form is found most often in Northern and Western Africa, and represents a small proportion of the world's slaves. This form of chattel slavery is often overlooked, but supporting its eradication should be a key thrust of EU external policy, with a suggested special emphasis on those countries that were once colonial possessions of European states. A second form is **debt bondage slavery**, or bonded labour, which is found most often in South Asia. The most common form of modern slavery, this is where a person pledges him/herself against a loan of money, but the length and nature of the service is not defined, and their labour does not diminish the original debt. The work of the debtor may ostensibly be applied to the debt, but through false accounting or extortionate interest, repayment is forever out of reach. In many cases of debt bondage the slave's work (and their very life) becomes collateral for the debt. Since all the labour power of the debtor is the collateral property of the lender until the debt is repaid, the debtor can never earn enough to repay the debt by their own labour. This form of debt bondage slavery is also often overlooked, but supporting its eradication should be a key thrust of EU external policy, with a suggested special emphasis on those countries where this form of enslavement is common and are now major trading partners of the EU, including India and Pakistan. A third form is **contract slavery**. This is the most rapidly growing form and the second largest today. It hides behind modern labour relations: contracts guarantee employment, but when the worker arrives, they are enslaved. Contract slavery is most often found in South-East Asia, Brazil, some Arab States and some parts of the Indian subcontinent, as well as the United States and Europe. It is through some form of contract slavery that many trafficked persons enter the EU. Supporting its eradication should be a key thrust of EU external policy, particularly with those states which are the origin countries for trafficking to the EU, including Albania, Armenia, Brazil, the Cameroon, Egypt, Moldova, Nigeria, Russia, Sierra Leone, Thailand and the Ukraine.

Finally, it should be made plain that human trafficking is *not* an overarching term which includes the concept 'slavery.' Trafficking is a process by which slavery can be achieved, a mechanism or conduit that brings people into enslavement. 'Trafficking' is itself defined by slavery, not the reverse, in that when a person is moved from one place to another and then enslaved, that is termed 'trafficking', whereas if the person is not enslaved it is likely to be termed 'smuggling' (a very different situation). A person might be taken into slavery by many paths, but the means of enslavement - while important for understanding the particular nature of a case of slavery - does not determine that state; it is simply the means by which a person arrives under the control of another. It is illogical to name the mechanism of acquisition of a person as an essential component in defining whether a person is in slavery. The situation of enslavement - being forced to labour against your will for no pay - should be the determinant of status rather than the method of recruitment or transportation.

We appreciate that many countries face a situation in which an international crime is currently defined in different ways in different jurisdictions. This is, unfortunately, an historical artefact and one that needs to be resolved if coherent justice is to be achieved. We recommend that the EU take the lead in this process of clarification and definition. The EU, in Article 83(1) has already established that it may adopt directives providing for minimum rules regarding the definition of criminal offences, that is, rules setting out which behavior is considered to constitute a criminal act and which type and level of sanctions are applicable. Within that Article is the mechanism by which to improve and empower a unified legal definition of slavery.

The long history of jurisprudence within the EU, indeed the invention of many of the fundamental concepts of human rights and justice by European states, establishes both a precedent and global role for the EU in the clarification and promulgation of needed conceptual tools in this emerging area of human rights law.

2 CONTEMPORARY SLAVERY ISSUES CONFRONTING THE EU

By the definition given in section 1, the most accurate calculation is that there are about **30 million slaves in the world today**². Put another way, today's slave population is greater than the population of Australia and almost seven times greater than the population of Ireland. This is largely an invisible population. Because slavery is illegal in all countries and banned by international conventions, it has become a hidden crime. In the past, when slavery was legal in many countries, slaves were counted and measured, their economic value was recorded, and they were listed in legal documents from contracts to wills. For that reason, we have partial measures of the numbers, demographics, and value of slaves for much of human history. Today the story is much different. Only a small fraction of slaves are reached and freed every year and, until recently, our ignorance of their situation has been vast.

The biggest proportion of the 30 million slaves, perhaps 15 to 20 million, is located in South Asia. India is the world's largest democracy, but within its borders there are at least 10 million people trapped in domestic service, forced marriages, forced prostitution and debt bondage. This slavery persists because of extreme poverty, caste and ethnic discrimination, police corruption, and low arrest and prosecution rates for slaveholders. Slavery is also concentrated in Southeast Asia, in Northern and Western Africa, and in parts of South America. Of the 30 million slaves, most are used in non-technological, traditional work that feeds into local economies. Around the world, a large proportion of slaves work in agriculture. Other common kinds of slave labour include brick-making, mining and quarrying, textile manufacture, domestic service, forest clearing and charcoal-making. Trafficking is just a small part of this global picture: there are approximately 2.5 million people in the world who are in slavery after being trafficked. Most slaves are sedentary; they haven't been moved from one place to another, though, in the case of Europe, those who are trafficked make up a large proportion of those enslaved.

The extent of enslavement in Europe, specifically, has been unknown until recently. But a recent evidence-based study used survey data and extrapolation to calculate the **number of enslaved people in 37 countries in Europe as 1.1 million** with the largest numbers in the Russian Federation (about 500,000), the Ukraine (about 100,000) and Poland (about 130,000), and the smallest numbers in Ireland (about 300), Luxembourg (66) and Iceland (41). This number of 1.1 million includes trafficking victims and demonstrates that in most European countries **more than 90 % of slavery is unidentified** or unreported in official data and estimates. A table of the estimated actual prevalence

² [Global Slavery Index](http://www.globalslaveryindex.org/), 2013, Walk Free Foundation <http://www.globalslaveryindex.org/> (retrieved on 3rd December 2013)

of slavery for each of 37 countries in Europe as well as an estimate of the proportion of slavery cases that are not known to governments is given in this paper's appendix. To illustrate the shocking nature of this high 'dark figure' through a comparison, it is unimaginable that in any European country 90 % of all homicides would go undetected. If that were to happen it would be a political scandal, deemed a complete failure of law enforcement and the justice system, and cause for public alarm. Yet that is the case with slavery, which is a very serious, often deadly, crime that involves related crimes (assault, kidnapping) that are themselves extremely serious³.

As in the rest of the world, a large portion of this 'dark figure' consists of people *not* trapped in sexual exploitation, but rather forced labour (enslavement outside the sex industry, in agriculture, factories, mines, domestic service, construction, hospitality, and numerous other sectors)⁴. There exist very few assessments of trafficking for forced labour in EU or non-EU countries and the problem of identifying these victims is particularly acute. Those trafficked into forced labour are sometimes unlikely to identify themselves as 'victims' of trafficking and slavery. There is often no incentive for them to come forward for, if they do not have the correct papers, they may be treated as illegal migrants and face swift deportation. This very vacuum of information is sometimes interpreted as a sign that forced labour trafficking is not a serious problem, and so events and strategies at national and international levels, as well as media reports, tend to focus on trafficking for sexual exploitation⁵. The Organization for Security and Cooperation in Europe (OSCE) has begun to shift this focus recently by holding conferences that focus solely on trafficking for forced labour. But one major challenge facing the EU is to continue shifting the focus of its external and internal policy to encompass slavery in *all* its forms, including trafficking for labour exploitation both within its borders and externally. Although some countries have policies addressing forced labour, other countries apparently do not consider it an issue. There is lack of dialogue about the specific needs for victims of forced labour. Support services for victims of labour trafficking are less available than for victims of sex trafficking. And in terms of enforcement, there is still a focus on the immigration status of the migrant rather than the criminal nature of the forced labour in which they have been exploited. It should be made clear that the provisions in the new directive apply to *all* slaves, not only those trafficked for sexual exploitation, and the EU should commission new research and design initiatives aimed at forced labour internally and externally.

There are numerous factors that support the external and internal trafficking of people into and within Europe and their enslavement within and beyond Europe. Within the origin countries are unique mixtures of forces that push people toward taking the chance of migration that can become a situation of trafficking and enslavement. Governmental corruption in origin countries is a powerful predictor of migration that becomes human trafficking, as are on-going conflict, high levels of discrimination (a key EU external target issue), the subordination of women (also a key EU external target issue), and a lack of human rights policies. The 2013 Global Slavery Index provides a breakdown of specific risk factors for origin countries that the EU might consult when it considers specific external policy actions.

³ See Monti Datta & Kevin Bales 'Slavery in Europe: Part 1, Estimating the Dark Figure,' *Human Rights Quarterly* 35.3 (2013).

⁴ See also the European Commission's *Trafficking in Human Beings Report* (2013), which notes that an estimated 880,000 people are in forced labour in the EU (18), citing the *ILO Global Estimate of Forced Labour* (2012).

⁵ Emphasizing the large-scale of enslavement into forced labour is in no way intended to diminish the scale and severity of enslavement into sexual exploitation, a wide-spread and devastating crime supported by attitudes that denigrate and devalue women. Two other facts must be pointed out. Firstly, that many enslaved people, and especially enslaved women and girls, are regularly and commonly sexually assaulted. The violent sexual abuse of slavery is not limited to those enslaved into sexual exploitation. Secondly, the enslaved are often moved from one type of exploitation to another, and there should be no assumption that any enslaved person is the victim of a single form of exploitation.

Where migrant workers are trafficked into and enslaved within the EU, one key factor is the restrictive nature and complexity of the labour and immigration regulations in destination countries. Restrictive migration regulations force more people to look for alternative ways to carry out their migration, using the services of agents or intermediaries (who sometimes are involved in the trafficking chain) for arrangements, assistance with documents and finding work. These arrangements leave migrants vulnerable to exploitation due to their dependency and, often, high debts. The complexity of regulation in many countries explains why it is not uncommon for migrants who would be permitted to reside and work legally to be exploited on the basis of their belief that they are not meeting immigration requirements. Under those circumstances they can be threatened with exposure to the authorities. Another set of factors affecting the exploitation of migrant workers are those of isolation, lack of knowledge of rights and multiple dependency. In general, migrant workers often lack knowledge of their rights. They feel responsible for making the wrong choice and are not aware of the options they have under national and international law. Moreover, migrant workers are often selected by dishonest employment agents for their lack of knowledge of the local language and are discouraged from learning it. A special concern is exploitation for domestic work in the private sphere that makes intervention and discovery from outside even more difficult. However, in other industries, for example forestry in the Czech Republic, employers hide migrant workers away in remote locations to prevent contact with the local population. In a large number of cases another important factor involves threats of violence made to the migrant worker or family members. These threats are underlined partly by myths planted by exploitative employers and partly by the knowledge of what happened to fellow workers. In addition to debt bonds and violence, additional strategies used by exploitative agents/employers are to withhold documentation and pay or to create multiple dependencies, for example by providing accommodation at extortionate rates. In many cases there is a combination of coercions present. The fourth major factor is more structural: the increasing demand for cheap labour in many of the industries and service sectors in the EU. Even in cases where employers pay the legal minimum wage, the increasingly widespread practice of sub-contracting creates opportunities for agents to withhold the earnings of migrant workers. Combined with the urgent need in many countries outside the EU to search for a better life, this provides the circumstances in which people take risks in their migration strategies.

The influence of all of these factors are increased or diminished by the strength of the rule of law. The poor and migrants are much less likely to be enslaved when the rule of law is efficient and fairly applied. The strongest predictor of slavery both within European countries and externally is the level of corruption.

3 THE EU RESPONSE, INCLUDING THE EU STRATEGY TOWARDS THE ERADICATION OF TRAFFICKING IN HUMAN BEINGS (2012-2016)

The Directive of the European Parliament and of the Council on preventing and combating trafficking in human beings, and protecting victims - hereafter referred to as *The Directive* - and *The EU Strategy Towards the Eradication of Trafficking in Human Beings (2012-2016)* - hereafter referred to as *The EU Strategy* - as well as the 'Action Oriented Paper on strengthening the EU external dimension on action against trafficking in human beings' (2009) address many vital issues and formulate many useful solutions. *The Directive* is a much stronger legal tool than the Council Framework Decision of 2002 that it replaces. It provides victims with stronger protection, establishes the minimum of maximum penalties, helps in the sanctioning of offenders, and emphasizes the non-prosecution of victims. As well, the requirement that Member States establish National Rapporteurs or equivalent mechanisms, and the provision for an EU Anti-Trafficking Coordinator (ATC), will strengthen the EU's ability to

coordinate anti-trafficking work. Currently existing institutions with mandates for anti-slavery work include the Home Affairs portfolio in the European Commission (EC), the data-collection and awareness-raising element of the Fundamental Rights Agency (FRA), and the criminal justice elements of Eurojust, the European Police College (CEPOL) and the European Police Office (Europol). Most important to future progress on ending slavery is the EU ATC.

Overall the EU has constructed a superlative legal structure to address human trafficking and slavery (notwithstanding the definitional issue raised in section 1). Article 83 of Treaty on the Functioning of the European Union refers to trafficking when describing common EU rules for criminal sanctions, and Article 5 of the EU Fundamental Rights Charter includes a prohibition of slavery and forced labour. Before anti-trafficking laws were passed in most countries, the EU enacted the 2002 Framework Decision that set out an initial strategy to work against human trafficking. The promulgation of the Commission Communication on 'Fighting trafficking in human being - an integrated approach and proposals for an action plan' (October 2005) and the subsequent 'EU Action Plan on best practices, standards and procedures for combating and preventing trafficking in human beings' (December 2005) provided a firm basis on which to build further policy. This action plan was designed to reflect clearly the Hague Program on Strengthening the Freedom, Security and Justice in the EU. An evaluation procedure for the Action Plan was then adopted in 2008. The streamlining brought about by the Stockholm Program is also a strong foundational addition to anti-trafficking policy given that slavery in Europe is primarily accomplished through cross-border trafficking. 'The Global Approach to Migration and Mobility' (2011) then made human trafficking a visible dimension of the pillar on irregular migration.

In EU external policy a series of documents have made clear the special situation of women and children and have focused on the various contexts and forms of enslavement. 'The EU Guidelines on the Rights of the Child' (2007) identify child trafficking among areas for EC intervention. The Commission Communication 'A Special Place for Children in the EU's External Action' (2008) pointed to concrete preventive and assistance measures to protect children and to ensure their rehabilitation, recovery and long-term social inclusion. The 'Conclusions on Children in Development and Humanitarian Assistance' (2008) underlined how, in times of crisis, there is an increased risk of children becoming the victims of trafficking. The 'EU Guidelines on Women' (2008) focused primarily on trafficking for the purposes of forced prostitution and located it amongst forms of violence against women. The second report on the implementation of the Action Oriented Paper on strengthening the EU external dimension has identified 10 priority countries with which the EU should develop more concrete partnerships. Altogether these strategic directives, programs, communications, guidelines, and legislation create a sound basis for anti-slavery policy.

The power of such instruments is clearly seen in the EU's work with countries outside Europe. A € 6.3 million project in South Africa has increased the government's capacity to deal with trafficking and enhanced coordination and cooperation. Other projects have provided direct support for trafficking victims from Malaysia, and those returned from Europe to Thailand and the Philippines. The cooperation projects that have concentrated on the high levels of trafficking between Brazil and Portugal and between Nigeria and Italy are well placed to achieve effective intervention. However, it is worth adding that in most countries now seen as a priority for intervention, it is not governments but NGOs that are carrying out the majority of interventions and programs for the interception, release, rehabilitation and reintegration of child victims of trafficking and slavery. Many of these NGOs are indigenous and have been found to be cost effective by outside evaluators, and these are the organisations most likely to be supported by EU member-states through development agencies.

Given that monitoring has suggested grass-roots NGOs are effective at addressing the stated goals of the Action Oriented Paper, the EU might consider direct funding to them.

The EU's anti-slavery provisions, and their adoption and inclusion in country strategies, stabilization and association agreements, international coordination projects, and action plans, reached a culmination with the appointment of the ATC at the end of 2010. It is a well-understood rule of management that a policy fares best with a champion, a person who has focused responsibility for implementation. Having an ATC and the guidance of the five key priorities of *The EU Strategy* sets the stage for significant progress and the new EU Civil Society Platform will be very important, but serious obstacles remain. Put simply, the EU has done almost everything it might do in order to create a functioning, coherent, comprehensive, and action-orientated plan for the eradication of trafficking into and within Europe, but plans and policies are not enough. This is especially the case with centralised plans that require uptake within a broad community of nations. At the most basic level, success of these admirable policies is dependent on resources and political will and cooperation. These are two key missing ingredients in EU anti-trafficking work, meaning there is a fundamental disconnect between the EU's stated intentions and the resources and political will brought to *achieving* those intentions. We believe this is not because politicians and states are over-stretched or desire to avoid or quietly dismiss the aim of eradicating slavery and human trafficking. Rather, a misunderstanding on the part of many key actors leads them to approach a major problem with a minor set of resources and parallel actions. The misunderstanding is reasonable in several ways: because the data available on human trafficking and slavery are inadequate to the task of making clear decisions about internal or external anti-slavery policy; because there is no significant constituency pressing for the eradication of slavery and trafficking, in part due to a lack of understanding about how slavery and trafficking have an impact on the economy, migration outcomes and crime levels; and because, in the absence of an interested constituency, the focus of policy makers is pulled away from the goal of eradication by other demands and issues.

A new conceptual approach in both internal and external policy that might better lead the EU toward its goal of eradication would be the adoption of an epidemiological vocabulary. In the statistical analysis presented in this document we estimate that there are about 1.1 million enslaved people in the EU. Compare that figure to the estimate by AVERT⁶, the international HIV and AIDS charity, that there were 840,000 people living with HIV in Western and Central Europe in 2010. Together the private philanthropic charities and the European Union devote around €300 million per year to HIV/AIDS. While the HIV virus is not eradicated, many people living with HIV now have reasonable life expectancy and the identification of those with HIV is a normal part of health screening. We do not suggest that there should be competition between resources assigned for HIV/AIDS and those for slavery. The aim of this comparison is to point to the similarities in their impact upon nations internal and external to the EU. Both HIV/AIDS and slavery can withdraw people from meaningful participation within the economy, can disrupt family life and education plans, are linked to migration issues and issues of discrimination and ethnicity, create stigma, are spread widely throughout populations, can make large demands on national health care, and social service infrastructures, and are linked to demands on law enforcement. In commercial sexual exploitation, the two crises exacerbate each other. Yet both can be eradicated, though the possibility of eradicating HIV in the next 25 years is much lower than the very strong possibility of eradicating slavery and trafficking, given sufficient resources and will. There are obviously key differences, but one of the most distinct is the significant, long-term focus and funding devoted to combatting HIV/AIDS, and the low levels of focus and funding devoted to combatting slavery.

⁶ <http://www.avert.org/hiv-aids-western-central-europe.htm> (retrieved on 3rd December 2013)

These facts lead back to the provisions and priorities of *The EU Strategy*. All of the specific recommendations of this strategy require some investment of resources and political will. Sufficiently resourced, all will pay dividends in diminishing the suffering and injustices attendant on trafficking and slavery, increasing economic growth, reducing the criminal economy, lessening the burden on state services and infrastructure, and hastening the ultimate goal of eradication. But none of these outcomes will be possible without a clear decision to devote resources commensurate with the severity of the problem. The EU can certainly help eradicate slavery in Europe and in the rest of the world. Those countries that can do so first, such as those in Europe with low levels of corruption and reliable law enforcement, should do so in order to demonstrate that this is an obtainable goal.

However, one hindrance to this on-going eradication process is that the agenda of *The Directive* and *The EU Strategy* does not yet emerge from reliable data. The information available is deficient in two important ways. First, the data are not capable of determining the actual extent of the crime. As a mixture of reported cases, arrest records, conviction records, and some records generated by organizations giving support to victim/survivors, the data are haphazard and not comprehensive. Second the data are not collected and disseminated according to accepted scientific practice. This is especially important because of the seriousness of this crime and the suffering it causes. If we think of this data as epidemiological information - what we need to know to address an epidemic of slavery and trafficking crime - then the information gathered and shared needs to follow the same rules of transparency, peer review, and open dissemination that we currently expect for data addressing a serious threat to public health.

By not currently offering proper data, the EU damages the credibility of its internal and external anti-trafficking efforts, especially in the breakdown of trafficking cases into those linked to enslavement into sexual exploitation and those linked to other forms of work. Through a reliance on secondary source data, *The EU Strategy* ultimately engages in statistical cherry-picking⁷. This confuses and misleads the public, and may lead the EU and non-EU countries to focus on enslavement in sexual exploitation to a degree not merited by the actual size of the problem and at the cost of the many millions more victims of labour slavery (68 % of global slaves, according to the International Labour Organization [ILO], though this estimate, as well, is not derived from representative data). Similarly, by looking mainly at cross-border trafficking, which is strongly associated with forced sexual exploitation, rather than slavery *within* countries and communities (internal and external), the EU might end up ignoring a significant proportion of the world's slaves. By recent ILO numbers, only 29 % of slaves crossed borders⁸. Another 15 % were moved within their own countries and 56 % were

⁷ For example, the second paragraph of *The EU Strategy* mentions 20.9 million victims of forced labour (an ILO statistic) and the fourth paragraph adds that 79% of human trafficking victims were subject to sexual exploitation (a UNODC statistic). A footnote points out that human trafficking can be regarded as forced labour, so the implication is that 79% of the 20.9 million forced labourers are caught in forced sexual exploitation, whereas in fact the UNODC statistic is referring to 79% of the 2,450,000 people who it categorises as victims of human trafficking (i.e., around 12% of the world's slaves as counted by the ILO). As the ILO report (from which *The EU Strategy* quotes) makes clear, only 22% of the 20.9 million slaves are victims of forced sexual exploitation, and 68% are victims of forced labour exploitation (while the remaining 10% are in state-imposed enslavement). In other words, the ratio of sexual versus labour exploitation is nearly the inverse of what *The EU Strategy* implies. Continuing its chosen emphasis on sexual exploitation, the *EU Strategy* then ignores an important statistic from the same ILO report it has just quoted: the 1.5 million forced labourers that the ILO says are in the Developed Economies and European Union (not including the 1.6 million in the neighbouring non-EU countries of Central, Southeast and Eastern Europe). See UNODC, *The Globalization of Crime: A Transnational Organized Crime Threat Assessment* (2010), 39 (citing ILO, *A Global Alliance Against Forced Labour* [2005]); ILO, *Global Estimate of Forced Labour* (2012), 13-14, 16. The ratio of trafficking for sexual exploitation to trafficking for labour exploitation is even smaller in the more recent UNODC report (the *Global Report on Trafficking in Persons* of 2012), which puts trafficking for sexual exploitation at 58%, trafficking for forced labour at 36%.

⁸ ILO *Global Estimate of Forced Labour 2012: Results and Methodology* (2012), 16.

not moved at all. By not grappling with data in a scientific and systematic way, the EU's internal and external policy threatens to overlook all those people who are enslaved without being trafficked.

The National Rapporteurs should initially focus on gathering data and we recommend that the EU and Member States begin using random sample surveys in a systematic way, for example adding questions about slavery and trafficking to existing crime or health surveys. This technique has made possible the very first reliable estimates of the actual prevalence of slavery in Belarus, Bulgaria, Moldova, Romania, and Ukraine⁹. There is no reason why a similar methodology could not be used in other countries. In addition, the new Global Slavery Index¹⁰ addresses many of these data problems by examining slavery's prevalence by country, both within the EU and externally. The first edition of the Index was published in October 2013, after multiple rounds of peer review by academic experts. The data collected for the Global Slavery Index is available in its raw form for re-analysis and investigation by experts within the EU.

This problem of data is closely related to what we consider the second major issue with the *Directive* and *The EU Strategy*, which is its focus on trafficking rather than slavery. Here the EU is not alone: in Canada, Australia and the US, policies, funding and attention have focused more on trafficking rather than slavery since the beginning of the anti-trafficking and anti-slavery movement in the 1990s. In part this is because of the historical charge that the word 'slavery' brings. Especially in the countries that were part of the Atlantic slave trade, including Britain, Portugal, France, Spain, the Netherlands and the US, the idea that slavery still exists is a politically controversial and potentially painful fact to acknowledge. Even the UN's first special rapporteur on contemporary forms of slavery recently observed that she is often asked not to use the word: 'I have been asked time and again by government officials, businesspeople and NGOs not to use the word 'slavery' at all. I have been asked to change the name of my mandate and not speak out about what I have seen. They have asked me to use other words instead - ones that don't carry the same meanings or implications'¹¹. One of these alternative words is 'trafficking,' which carries less historical weight and is more sanitised. But over time, countries *have* begun to use the word 'slavery' more. For example, in the UK the recent report *It Happens Here* (2013) carried the subtitle *Equipping the United Kingdom to Fight Modern Slavery* and offered more than 80 recommendations focused on ending *slavery* in the UK rather than trafficking. In the US, from 2002 to 2008, the annual *Trafficking in Persons (TiP) Report* talked about trafficking and used the phrase 'slave-like conditions,' referring only rarely to 'slavery', but from 2009 onward, beginning with the first report of the Obama administration, the *TiP Report* has frequently referred to slavery. As President Obama put it in September 2012, the situation of people who are forced to work for no pay against their will 'must be called by its true name - modern slavery'¹². And as Ambassador CdeBaca added recently¹³, speaking as Director of the US State Department's Office to Monitor and Combat Trafficking in Persons: 'if somebody came to you and said there'd been a rash of bank robberies, and you had a choice between making it illegal to rob banks or illegal to drive to the bank in order to rob it, which would you choose?' We recommend that the EU cease referring to trafficking *as* slavery, recognise trafficking as a method by which a minority of the world's slaves are brought into enslavement, and refocus its internal and external policy as one of *ending slavery*¹⁴. In external

⁹ Julia R. Pennington et al, 'The Cross-National Market in Human Beings,' *Journal of Macromarketing* 29.2 (2009): 119-134.

¹⁰ <http://www.globalslaveryindex.org/> (retrieved on 3rd December 2013)

¹¹ Gulnara Shahinian, '[Slavery must be recognised in all its guises](#),' *The Guardian*, April 26, 2013.

¹² 'Remarks by the President to the Clinton Global Initiative, September 25, 2012,' White House Press Secretary.

¹³ <http://www.legalnews.com/grandrapids/1369241> (retrieved on 3rd December 2013)

¹⁴ The *Joint UN Commentary on the EU Directive—A Human Rights-Based Approach* (2011) makes a similar point: 'Legislative and judicial action against forced labour and against human trafficking can serve the same goals and be mutually supportive, in the same way as historically combating the slave trade went hand in hand with combating slavery itself. Such an approach is in accordance with the core human rights treaties, including the ILO Forced Labour Conventions and Article 4 of the ECHR,

policy, this means that slavery rather than just trafficking should be systematically included in relevant EU agreements and strategic partnerships with non-EU countries. The efforts to end slavery should use the mandate of the EU to create an enlarged consciousness of rights and lead the way in ending slavery worldwide over the coming generations. Rather than focusing on *how* some people are enslaved, the EU should focus on slavery itself. Rather than expanding the definition of trafficking to include non-trafficked slaves, the EU should work against slavery, which already *includes* trafficked slaves. Slavery includes those trapped in forced prostitution and those trapped in factories and quarries; those trafficked and those in sedentary forms of slavery. This different focus would then entail a less selective use of statistics: for example, the *Trafficking in Human Beings Report* (2013) by the EC observes that worldwide, trafficking for sexual exploitation is more frequent than trafficking for forced labour but ignores the fact that worldwide, enslavement for sexual exploitation is far *less* frequent than enslavement for labour exploitation¹⁵.

This process of changing focus should begin with documents, titles, committee names, and websites, and end with internal and external policies, initiatives and impact. For example, in terms of language:

- There is a UN International Day for the Abolition of Slavery, a UK Anti-Slavery Day, and a US National Slavery and Human Trafficking Prevention Month, but only an EU Anti-Trafficking Day. Could the EU acknowledge slavery with an EU Anti-Slavery Day in the same way as the UN, the UK and US?
- Could the OSCE cooperative platform called the Alliance Against Trafficking in Persons be the Alliance Against Slavery and Trafficking in Persons?

In terms of research and reports:

- Could the EU Group of Experts include anti-slavery experts, not only anti-trafficking experts?
- Could the *Eurojust Strategic Project and Action Plan against Trafficking in Human Beings* include the aim of enhancing information exchange to get a better intelligence picture of slavery, not only trafficking, as well as coordination mechanisms for training around trafficking *and* slavery cases?
- Could the EC's next statistical report be on slavery rather than trafficking in human beings, and could the EU-wide system for the collection and publication of data broken down according to age and gender that the EC and Member States will develop include data on slavery?
- Could the project that the EC plans to fund in 2014 that will develop guidelines to better identify victims of trafficking in human beings in fact develop guidelines to identify those who are enslaved?
- Could the analysis that the EC will perform of prevention initiatives already in place to target trafficking also analyse initiatives that target slavery?

In terms of policies:

- Could the tool that FRA will develop in 2014 to assist Member States in addressing fundamental rights issues specifically related to anti-trafficking policy be about trafficking *and* slavery?
- Could you adopt EU-wide minimum rules concerning the definition of criminal offences in the area of slavery, not only trafficking?
- Could Member States be asked to each appoint an independent Anti-Slavery Commissioner and could their new national legislation be a Modern Slavery Act rather than a trafficking act?
- Could the EU ask Member States to establish law-enforcement units on slavery *and* trafficking?

which prohibits forced labour, slavery and servitude as human rights violations. Slavery is also prohibited *jus cogens*. Consequently, State Parties are required to criminalize these practices and provide adequate remedies to its victims' (32-33, 34).

¹⁵ European Commission, *Trafficking in Human Beings Report* (2013), 18.

Even the opening sentence of *The EU Strategy* could be revised: 'Trafficking in human beings is the slavery of our times.' In fact, *slavery* is the slavery of our times. *The EU Strategy* uses the word trafficking 194 times and slavery only once (in that opening sentence). This was a missed opportunity to write ground-breaking anti-slavery legislation that named and addressed the problem of contemporary slavery.

Aside from providing a more comprehensive, necessary, logical and urgent focus, a shift toward slavery (which *includes* trafficking) would enable the EU to grapple in a more serious way with forced labour as part of its external policy, because many victims of forced labour around the world are in sedentary forms of slavery (so the question of how to address the means of arrival in a destination country is often less relevant than for sex trafficking victims). As well, by thinking in terms of slavery, the EU would be able to better incorporate slavery into ethical business standards and address the question of slave-made goods in its external policy (see our further recommendations on this in sections 5 and 6). And the shift would also enable the EU in its internal and external policy to better address nations that fail to implement legislation and strategy (for they will be nations that turn a blind eye to slavery - human bondage - rather than to trafficking - a less politically dangerous word).

Finally, a new focus on slavery would enable the EU to better galvanize public opinion in both EU and non-EU countries. As a recent document by the European Economic and Social Committee put it, 'there is a vast collective tolerance and silence around human trafficking. Most people close their eyes, do not wish to see'¹⁶. The solution to this averted gaze is to call slavery *slavery*. The public has little idea of what trafficking really means, and innumerable TV shows, films, and sensationalized media reports have diluted the word, to the point where many members of the public believe 'sex trafficking' is any form of prostitution. Without clear language, there will be mixed results in raising public awareness. The EU needs to use clear terminology to name the problem, raise public awareness and formulate a coherent anti-slavery strategy. Europe, as a unified community of nations, can provide global leadership in bringing coherence to the understanding and definition of this issue, an external policy that may be less dramatic than direct intervention, but has profound power to improve and multiply anti-slavery goals.

4 THE ROLE OF THE UNITED NATIONS IN ENDING SLAVERY

In some ways the United Nations (UN) has been an anti-slavery leader for decades. The first global treaty on slavery was a product of the League of Nations in 1926, and when the Universal Declaration of Human Rights was agreed in 1948, slavery was declared illegal in all forms everywhere. Today the UN's anti-slavery mechanisms are the Special Rapporteur on Contemporary Forms of Slavery, appointed for the first time in 2008 and housed within the Office of the United Nations High Commissioner for Human Rights (OHCHR), which also administers the Voluntary Trust Fund on Contemporary Forms of Slavery (providing funds to projects that assist victims of contemporary slavery); the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT), which develops anti-trafficking tools and partnerships and was launched in 2007 by the ILO, OHCHR, the United Nations Children's Fund (UNICEF), the United Nations Office on Drugs and Crime (UNODC), the International Organization for Migration (IOM), and OSCE; and UNODC, which focuses on the criminal justice element of human trafficking. However, the UN rarely has the resources needed to take meaningful action. This is discouraging because the UN is one of the best possible organizations to fight slavery. Many of its agencies, like the World Health Organization (WHO) or the World Food

¹⁶ *Opinion of the European Economic and Social Committee on The EU Strategy Towards the Eradication of Trafficking in Human Beings 2012-16* (2013), 2.4.

Program (WFP), work in places where they are likely to come into contact with slaves, and to offer the help that liberated slaves need to build new lives.

To help move the UN's work forward, the EU could make and support the following suggestions to OHCHR that would, in turn, bolster external action on slavery and trafficking:¹⁷

- That the OHCHR propose to the Secretary-General of the United Nations (UNSG) the appointment of **a Special Representative of the Secretary General for Slavery**. Replacing the current role of the Special Rapporteur on Contemporary Forms of Slavery and with more power to investigate and negotiate on behalf of the UN. The work of the UN against slavery is currently piecemeal and uncoordinated; a Representative could recommend how to bring together the disparate parts of the UN's anti-slavery and anti-trafficking effort. A report of a Special Representative for Slavery could set out a plan for a much more robust and coordinated response by the UN. The Special Representative should be charged with preparing a meeting of the Security Council concentrating on contemporary slavery. In recent times, the Security Council has only addressed slavery once, and then in a very restricted way (in 2005, it passed Resolution 1612 on 'Children and Armed Conflict').
- That OHCHR should propose to the Members of the Security Council **a contribution of funds and resources** to the Special Representative to ensure that she or he can really attack slavery worldwide. The Special Action Programme to Combat Forced Labour (ILO) is one of the most effective parts of the UN, yet runs on a tiny budget. It is a clear indication of how high slavery ranks in the priorities of the UN that the program spends less than .0008% of the UN's total budget.
- That the UN Human Rights Council appoints **a committee of experts to review the existing conventions on slavery and recommend how to unify and clarify them**. Offering different definitions of the same crime, and calling slavery by different names, the existing conventions and resolutions, dating back to 1926, create a lot of confusion. Many of these confused definitions date back to compromises made to protect colonial interests that no longer exist, or to give work to agencies that have long since disappeared. Such a committee would also offer recommendations for how coordinate and improve the UN's programmatic response to slavery. Sometimes the improved response will build on existing mechanisms.
- That OHCHR propose to the Security Council the establishment of a **commission to determine how the existing UN inspection mandate could be applied to slavery**. Most countries in the world have ratified the various UN anti-slavery conventions, and independent, objective inspectors could be deployed to countries to identify and help correct any loopholes in the enforcement of their own laws and their international commitments. If they want to show true leadership, the five permanent members of the Council will ask that their countries be inspected first. If the inspectorate is the core of the UN's work against slavery, many of its other agencies can be harnessed to the task.

The coordination of the different parts of the UN to address slavery shouldn't be restricted just to those agencies that currently work on the issue. Many of the forces and factors that push people into slavery are the focus of UN activity. The WFP already knows how to get food to the people who need it; only two steps are needed to let it become an anti-slavery machine as well. The first step is to build an awareness of slavery into its planning, the second is to see that it has the resources to assemble a special unit that searches out and attacks slavery through food aid, enabling slaves, especially

¹⁷ For a more detailed discussion, see Kevin Bales, *Ending Slavery* (University of California Press, 2007), 139-176.

sedentary chattel slaves, the food security they need to make the break for freedom. Given the scale of food and agricultural policies and activities of the EU, exactly such a program of food aid aimed at supporting liberation and the subsequent autonomy of freed slaves would be an excellent direction for external engagement.

Operating alongside the WFP is the WHO, which could re-focus its strategies through a slavery lens. Health workers, because they come into contact with whole populations, are likely to encounter slaves. If they are trained to recognize them, liberations can be hastened. Freed slaves can be given long-needed medical care and improve their chance of autonomous and productive lives. This is not to call for any alteration in the basic work of the WHO, only to ask that sensitivity to slavery be added in the same way that, in the past, an increased sensitivity to gender became part of UN policies with great benefits. Once again, given the scale of externally focused health and medical policies and activities of the EU, exactly such a health program aimed at supporting liberation and the subsequent well-being and autonomy of freed slaves would be an excellent direction for external engagement.

In addition to WFO and WHO, the UN Peacekeepers could play an anti-slavery role. Slavery is enforced through violence, and when the slaveholder's power and profit are threatened then violence is sure to follow. UN peacekeeping troops, with diplomatic agreement, could easily be deployed to free and protect slaves. Trained in the process of liberation, knowledgeable about the right moments to intervene, prepared to offer food, shelter, and medical support in addition to security, such a force would be invaluable to achieving large-scale liberation, especially in those areas of on-going conflict where slavery often emerges as the rule of law breaks down. Once again, the superlative if limited activities of the EU Peacekeeping contingent might benefit from anti-slavery training. It is likely that EU Peacekeepers have been and are deployed in conflict areas where trafficking and slavery flourish. Training and development of sensitivity to trafficking for the EU Peacekeepers is another potentially powerful direction for external engagement.

Additionally, human rights groups - including Anti-Slavery International (ASI) - should be included in the decision making of the ILO. The UN and the ILO rely on NGOs to help them assemble their policies and write their conventions. What they will not do is let them sit at the table. The 'tri-partite' system at the ILO of employer organisations, trade unions, and governments, a radical and forward-thinking strategy at the time of the organization's formation in 1919, today excludes groups that represent much larger constituencies, such as human rights organisations. At the same time, this three-way ruling group is often dependent on the NGOs for innovation and follow-through. A specific and important externally-focussed activity for the EU would be to draw indigenous anti-trafficking and anti-slavery NGOs into the decision-making process around developing policies to fight slavery in countries outside the EU.

Finally, the EU ATC might want to explore developing a stronger external presence through specific collaboration with various UN agencies and projects. For example, could collaboration with the UN's Global Forum on Migration and Development (GFMD) add a new thematic area of slavery and trafficking to the existing list of 11 thematic areas of Migration & Development Practices¹⁸ in the Platform for Partnerships? Could collaboration with the UN Alliance of Civilizations (UNAOC) establish a new programme area about labour (including slavery) to join UNACO's existing four programme areas¹⁹ (of youth, media, education, and migration)? These collaborations would be in addition to other important external partnerships. For example, the EU might want to collaborate with the IOM on its capacity-building projects for governmental and non-governmental actors within the European

¹⁸ <http://www.gfmd.org/en/pfp/practices> (retrieved on 3rd December 2013)

¹⁹ <http://www.unaoc.org/about/> (retrieved on 3rd December 2013)

Economic Area. As well, the IOM states that its assisted voluntary return and reintegration (AVRR) programmes are generally only accessible to trafficking victims who are EU citizens due to the rules and regulations of the European Return Fund²⁰. The EC might want to discuss with the IOM how to best revise these rules and regulations.

5 THE ROLE OF THE PRIVATE SECTOR IN ENDING SLAVERY

The EU Strategy notes the importance of a focus on 'business and supply chains' and plans to establish a Private Sector Platform and a European Business Coalition but does not elaborate much further. **Attention to supply chains needs to be a key part of the EU's external policy.** All over the world slaves are forced to work and supply us with the things we buy. Raw materials and commodities like cotton, sugar, iron, gold, diamonds, coffee, timber, fish, cocoa, as well as goods like clothing, shoes, toys and bricks, come from slave labour. These commodities and goods flow into the global product chain and arrive in European homes. Western boycotts of certain products can make things worse by hurting the majority of producers who don't use slaves, even pushing families into the destitution that makes them vulnerable to enslavement.

Behind the questions of how goods made by slaves flow into European markets and homes are questions that must be addressed in order to establish an effective external policy on international supply chains. These questions fall into two inter-related areas. The first question concerns the continuum that ranges from guilt through culpability to responsibility for slavery in supply chains. The second question concerns how to legislate given the reality of multi-directional and multi-country international supply chains operating within a context in which the enforcement of laws is primarily limited by national borders, and an ethos of non-intervention into international trade shapes policy.

The first concern is one that requires special attention and ultimately policy development. Whether a product entering European markets is food-stuffs, minerals, building materials, or manufactured goods, if it is touched by slavery then that slavery is most likely to have occurred at the very beginning of the product supply chain. Most slave-made goods are simple and derivative products, and come from the hands of slaves at the point of origin - the mine, the farm, the lake or ocean. At this point there is clear guilt of the crime of slavery as perpetrated by the slaveholder. As the product or commodity moves to the next steps along the product chain there continues to be legal guilt of the crime of enslavement, though the shippers, the processors, the middle-men and brokers, are willing and knowing *accomplices* to the crime, they *aid and abet* in the commission of the crime, but are not the actual enslavers. At the third step along the supply chain are normally still more businesspersons who are aware or easily could be aware that the goods they are handing have come from the hands of slaves. These persons are sometimes referred to in the law as *accessories after the fact*. In these cases the perpetrators are guilty of both national and international law, they are in violation of *jus cogens* provisions making them liable not just to prosecution by states but by international courts as well. The important policy point is to recognize where the criminal guilt occurs and act appropriately.

It is often at the fourth link in the product chain that guilt ends and culpability begins. Brokers, dealers, wholesalers, shippers, processors, and traders are near enough to the point of origin, even when a slave-made good has come from another country, to reasonably suspect or know of its origin in slavery. It is often from the fourth step in the supply chain that the process of concealment begins

²⁰ 'Counter-Trafficking and Assistance to Vulnerable Migrants, Annual Report of Activities 2011' (International Organization for Migration, 2011), 90.

in earnest. Slave-made commodities are knowingly blended with those from legitimate sources. Wilful ignorance means that records are kept only in general and innocuous ways in order to conceal the origin of goods. From this point it becomes difficult to precisely trace slave-made goods as they continue to flow up the chain. It is also at this point that this first concern over guilt, culpability, and responsibility intersects with the second concern over legislation and policy. While the businesspersons at this stage are culpable of shoddy or purposive practices that conceal the origins of slave-made goods, they are rarely in violation of any state or international law. The ethos of non-intervention in international trade means that they are able to operate freely, passing goods and commodities further along the supply chains.

With every step of extended custody and physical distance, knowledge of origin and culpability fades. The processors, traders, importers, and now manufacturers and commercial wholesalers are simply buying products from suppliers who are not based in areas with known slave production, and are often from within their own country. At this point, businesses are trading who have only the responsibility to enquire and investigate their product chain, but are not legally required to do so. That level of supply chain responsibility extends to the ultimate link - the consumers. Contrary to the arguments made by some NGOs, there is no moral watershed that separates the consumer from the dealer, somehow absolving the consumer but assigning guilt to the business for the exploitation of slave-made goods.

These levels of responsibility are recognized and explained in detail in the 'UN Guiding Principles on Business and Human Rights.' These Principles are an excellent and detailed starting point in the development of policies at the interface of business and government. As they note, 'business enterprises should carry out human rights due diligence,' and, unlike nearly all other guidelines on corporate responsibility, the UN Guidelines explain that 'complicity may arise when a business enterprise contributes to, or is seen as contributing to, adverse human rights impacts caused by other parties.' The Guidelines even point to the fact that 'most national jurisdictions prohibit complicity in the commission of a crime, and a number allow for criminal liability of business enterprises in such cases. Typically, civil actions can also be based on an enterprise's alleged contribution to a harm, although these may not be framed in human rights terms. The weight of international criminal law jurisprudence indicates that the relevant standard for aiding and abetting is knowingly providing practical assistance or encouragement that has a substantial effect on the commission of a crime'²¹. The difficulty in this context is that these Guidelines, and most of the regulations and laws within Europe, have no power to direct or require actions of companies with regard to slavery in their supply chains. It is the role of the UN to explain in such Guidelines what businesses and consumers *should* do, but it requires legislation at state or EU level to determine what they *must* do. In that regard there are entry points that do not radically have an impact on international trade or the conduct of business, but begin a process of supply chain tracing and disentanglement.

Businesses can help stop slavery by taking responsibility and cleaning up their product chains. We recommend that the EU **design a law similar to the California Transparency in Supply Chains Act of 2010**, a version of which is currently before the UK Parliament as the Transparency in UK Company Supply Chains (Eradication of Slavery) Bill, requiring all companies trading over a certain size to publish information about the efforts they are making to ensure modern slavery is not in their supply chains. An EU Directive on Transparency in Supply Chains, aimed at companies operating in the EU with annual gross receipts exceeding €100 million, would increase companies' accountability and encourage them to be proactive in addressing slavery through compliance systems. Companies

²¹ 'Guiding Principles on Business and Human Rights,' (2011), 17, 19.

would be required to disclose this information in their annual reports and on their websites. The EU could highlight (at its website²² and in an annual report) the good work of companies that have ensured their supply chains are slavery-free and would move corporations forward towards ethical sourcing. Additionally, small alterations in the business tax regime could deliver significant support to actively responsible companies. An important feature of this legislation is that it is not punitive. There is no requirement that companies actively work to reduce the presence of slavery in their supply chain, only that they report what actions they are taking to do so. This means that the consumers and wider market have better information upon which to make purchasing and business decisions. It brings a positive rather than a negative pressure upon companies²³.

At the same time, the EU should invite civil society groups to engage with companies, help identify slavery in their supply and sub-contracting chains, and carry out independent third-party reviews of company programmes. It could also **bring together everyone who benefits from a commodity or product to clean up its product-chain**, along the lines of the International Cocoa Initiative (ICI) - an alliance between the chocolate industry, human rights groups, farmer cooperatives, and consumers, that pledges they will work together to remove child labour and slave labour from the product chain. Working together, the chocolate industry has provided more than €10 million to stop slavery where it occurs on the farms of West Africa. Much more work remains, but the ICI has proven that region-wide anti-slavery work is possible, and provides a model upon which the EU could improve. A second example of anti-slavery business practise is the Rugmark Foundation (now known as GoodWeave), an international charity established in 1994 that inspects and licenses carpet looms in South Asia. Since 1995, Rugmark/GoodWeave has certified millions of carpets as slave-free. These models need to be fostered and extended to other industries whose products are tainted with slavery. Governments can act as matchmakers between competing companies and the anti-slavery movement in this process, and should actively bring together stakeholders. The EU might also consider collaborating with, supporting or highlighting the work of the IOM campaign Buy Responsibly²⁴.

Additionally, the EU could encourage Member States to pass labour laws making companies that rely on sub-contracted labour responsible for protecting those workers. Some employers indirectly 'purchase' trafficked workers by obtaining labour through sub-contractors. Since the trafficked workers are employed on the premises of the contracting business, policy makers should make the sub-contracting of trafficked workers a violation. A potential fine or other punishment would make contracting businesses more careful about the workers they use. The new European Business Coalition should be extended to small sub-contractors for large conglomerates in branches where the informal economy plays a role (for example, construction). As well, the EU could encourage Member States to provide more incentives to companies for hiring former slaves in order to reduce the risk of re-enslavement (without violating privacy by asking them to reveal their experience to an employer)²⁵.

At a higher level the issue of slavery in the supply chain can and should be dealt with in the governance of international trade. At the most basic level, and perfectly permissible within the trade regulations of World Trade Organization (WTO), is the simple prohibition that no slave-made goods or commodities can be imported into the EU. Such a law is important as a foundation, though it can be

²² <http://ec.europa.eu/anti-trafficking/> (retrieved on 3rd December 2013)

²³ See also United Nations Global Initiative to Fight Human Trafficking (UN.GIFT), *Human Trafficking and Business: Good Practices to Prevent and Combat Human Trafficking* (2010), which outlines why the private sector should be concerned with trafficking.

²⁴ <http://www.buyresponsibly.org/who.php> (retrieved on 3rd December 2013)

²⁵ See Sebastian Baumeister and Susie Maley, 'The Role of the Private Sector in Developing Youth Careers,' in *Challenging Trafficking in Persons: Theoretical Debate & Practical Approaches* (Nomos, 2005), 81–85.

very difficult to enforce and - in spite of its simplicity and clear intent - will also open political and diplomatic issues. These issues are most difficult when imports come from major trading partners, rather than small nations with smaller exports. For example, in 2011 EU parliamentarians rejected a Partnership and Cooperation Agreement that would have included trade in cotton with Uzbekistan. Given the well-documented state participation in forced labour in the annual cotton harvest, this was a reasonable step to take. It raises, however, three further issues that need to be considered when policy making around external relations and slavery. The first issue is a consideration of the impact on the innocent parties, the citizens of Uzbekistan who are being forced into labour by their own government. Given that cotton is the major export of that country, what hardships will its citizens face if economic downturn follows what is essentially a boycott of Uzbek cotton? The second issue is whether a simple denial of trade is a sufficiently enlightened approach to slave labour in commodities. If the EU ends the importation of Uzbek cotton, other countries will not be so scrupulous, and the forced labour will continue unabated. The question must be asked by responsible parties (including European businesses and governments) of how this instance of forced labour can be brought to an end. It is worth noting that in all countries that have made a transition away from forced labour in cotton, the key factor in promoting change was mechanization of the harvest. It is further worth noting that European industry produces such equipment and that a policy of trade credits and technology assistance might produce larger, more humane, and more long-lasting results than cessation of trade. The third question that must be faced is how to deal with much larger trading partners. There is slave labour, for example, in agricultural goods produced in the United States, and there are prison factories in China in which inmate-workers have not had the benefit of the due process of law. The EU's external policy will need to address the question of slavery as it applies to these two major trading partners.

This question leads back to a recommended starting point: the proposed business transparency law that requires only that businesses report what actions they are taking to determine if and how slavery exists within their supply chain. The importance of this law is that it involves all stakeholders - consumers as well as businesses, governments and trade associations. By having no immediate penalties it accentuates the positive values of participation. Supply chains are long and crimes such as slavery can be well hidden. No single and simple action will address this problem, only a well-thought-out and long-term strategy.

6 FURTHER RECOMMENDATIONS FOR THE EU AND EP IN COMBATING CONTEMPORARY SLAVERY

6.1. National Anti-Slavery Plans

6.1.1 The role of national governments in the eradication of slavery is crucial. No society likes to admit that slaves live within its borders. Nations display split personalities when it comes to slavery: denouncing it to the world, unable to look it in the face at home. But the EU should encourage every Member State to produce a unique national plan for slavery's eradication. These responses will have many common elements, but the precise mix will vary from country to country. Some nations will have the resources to eradicate slavery very quickly but an extreme shortage of political will. Poorer countries may have the best will in the world, but not enough money to take on the slaveholders. Brazil's national plan for the eradication of slavery is an example of a coordinated approach that is having good results. In its external policy, the EU can promote the adoption of national anti-slavery plans to non-member states.

- 6.1.2 As *The EU Strategy* provides for National Rapporteurs, governments could produce this national plan by bringing together all relevant existing government agencies and charging the Rapporteur with coordinating their efforts, actively involving local anti-slavery organizations, and leading the development of a plan outlining everything that will be required (including what help will be needed from other countries and groups) to stop all forms of slavery. Having a national plan will help focus agencies' efforts and gives constituents a way to hold their government accountable.
- 6.1.3 These national plans of action should include provisions on monitoring and evaluation. It is an unfortunate truth that a good deal of the scant resources made available to anti-slavery work is spent without pre-and post-testing or evaluations of effectiveness, particularly by 'awareness raising' projects.
- 6.1.4 If countries need advice, that should be made available: the EU should offer best practices and contact information of local and international NGOs, and continue hosting meetings of the Informal EU Network of National Rapporteurs or Equivalent Mechanisms.
- 6.1.5 High up on each country's anti-slavery plan should be supporting the formation of local taskforces, which are more effective than national taskforces. A city-wide taskforce would include city government departments, civil society organisations, law enforcement, service providers, members of the local press, medical personnel, and potentially interested groups like local churches. The taskforce can then train and plan for trafficking and slavery cases, addressing and resolving areas of potential overlap or conflict, and ensuring that open lines of communication exist. Such taskforces smooth the movement of survivors to appropriate service providers, increase the viability of prosecutions, and increase public awareness and vigilance. They could be mandated by laws within the Member States and supported directly from federal agencies. In its external policy, the EU can encourage and even fund local taskforces in non-member states.
- 6.1.6 As they design and implement these anti-slavery plans, the EU should encourage governments to stop looking for quick-fixes. Every government official should understand that slavery's eradication is multi-dimensional. Slavery is a legal problem but also, to a greater or lesser extent in every country, a problem of economic development, migration, gender, prejudice and corruption. Slavery also generates health and social problems. Each one of these categories has many sub-parts, particularly in an issue as large as economic development. Politicians in many countries have become aware of one facet of slavery or trafficking and then rushed new laws or regulations into place. Whether a well-meant action or just window-dressing, the result was a sense of frustration when the larger problem continued to grow. There is no quick fix for slavery, not raiding brothels or buying people out of slavery.

6.2. Research and Information Sharing

- 6.2.1 First on every country's anti-slavery plan should be the gathering and centralization of information. Measurement of slavery is very difficult because of the often hidden nature of the crime, but it is critical to centralize every scrap of information available in order to build benchmarks of measurement and see if progress is occurring. In most Member States there is a gap in centralised information gathering and research at the national level. All the possible players - elected representatives, government officials, NGOs, law enforcement - need to agree what benchmarks they will use to measure how well they are doing in eradicating slavery. The National Rapporteur could facilitate domestic data collection or

such an initiative could also be taken on by a non-governmental agency with government resources.

- 6.2.2 The EU should help unify data collection across Member States and then use its website²⁶ (ideally renamed to reflect a trafficking *and* slavery focus), to make the results available as part of the website's enhanced role as an EU-wide networking tool for civil society organisations and service providers - a system for sharing information and supporting research. The website should be a central clearing house, featuring the national anti-slavery plans; data on the scope and types of slavery and trafficking in different countries and regions; known trafficking routes; the results of independent evaluations of anti-slavery projects; best practise documents and training materials; forums for people to share lessons learned; details of international conventions, soft laws and national laws; and the annual Anti-Slavery Reports (see 6.2.f). This would help reduce overlap of effort. The website should also feature data and information on antislavery efforts from non-EU countries, so that information sharing extends beyond the EU's borders.
- 6.2.3 *The EU Strategy* notes that it will include information on the website about anti-trafficking projects funded by the EU, but we recommend that the website includes information on *all* anti-trafficking and anti-slavery projects within the EU, whether EU-funded or not.
- 6.2.4 To begin raising awareness about supply chains, the website could link to Slavery Footprint²⁷, which has been visited by millions of people and helps determine an individual's contribution to slavery.
- 6.2.5 Not all Member States have a hotline listed at the relevant page of the website, and of those that do, some are not dedicated trafficking/slavery hotlines, but general hotlines for children, vice, migrants, social services, general crime, general violence. The EU should further encourage Member States to set up slavery hotlines, pointing to the success of the US hotline²⁸. In addition, Google is supporting the extension of hotlines globally and has launched a test hotline in the Czech Republic. This initiative should be followed.
- 6.2.6 One sure way to determine the success or failure of the current war on slavery is through an independent, structured program of monitoring and regular evaluation. *The EU Strategy* notes that the Commission will report every two years on the progress of EU countries in fighting human trafficking. This report (which should be about trafficking *and* slavery) should be annual, perhaps timed to coincide with the annual release of the Global Slavery Index and the US *Trafficking in Persons* report, in order to better galvanize Member States into taking action. This annual EU Anti-Slavery Report should incorporate national reports by independent examiners (NGO representatives, academics, members of the Council of Europe's (CoE) Group of Experts on Action against Trafficking in Human Beings [GRETA]), in consultation with the National Rapporteurs, rather than by the Rapporteurs' offices themselves. It should incorporate the findings of the slavery inspectorates (see 6.5), the measures taken by corporations (see section 5), and updates to the list of slave-made goods (see 6.4.d). The EU ATC could collaborate with the CoE to incorporate the reports of GRETA. The Anti-Slavery Report should include an assessment of the EU's own programmes, produced through contract to an independent academic institute. It might want to draw from the Global Slavery Index (see section 3), the first truly global index of the

²⁶ <http://ec.europa.eu/anti-trafficking/> (retrieved on 3rd December 2013)

²⁷ <http://slaveryfootprint.org/> (retrieved on 3rd December 2013)

²⁸ <http://www.polarisproject.org/what-we-do/national-human-trafficking-hotline/contact> (retrieved on 3rd December 2013)

size and nature of contemporary slavery. It should include information on how countries' human rights strategies are applied to anti-slavery work. Here it could draw again from the Global Slavery Index, which has a section on government responses to slavery, and address human rights policies in those countries.

6.3. Ratifying Legislation

6.3.1 Only six of the EU's 27 members had ratified *The Directive* by the deadline of April 6, 2013. The EU must continue to urge the remaining countries to implement the legislation, recognising that it cannot implement an effective external policy until its own member states have agreed to anti-slavery action.

6.3.2 Member States should ratify the Palermo Protocol, the Council of Europe Convention On Action Against Trafficking in Human Beings, the UN Convention of the Protection of the Rights of All Migrant Workers and their Families and the ILO's Convention 189 on Domestic Work.

6.4. EU Trade and Economic Growth

6.4.1 In addition to working with businesses, as part of its external policy the EU should negotiate trade agreements with non-EU countries that prohibit the circulation of goods produced using slave labour.

6.4.2 As another part of its external policy, the EU should pass and enforce a law that slave-made goods may not be imported into, exported out of or traded within the EU. Slavery is itself a drag on both trade and national economies, so its eradication should be a key element of trade law.

6.4.3 A Member State should encourage the WTO to insert a recognition of slavery and its *jus cogens* status into Article XX(b) of the GATT agreement that set up the WTO. This article permits trade restrictions when the disputed measure is 'necessary for the protection of human health.' Alternatively a Member State could take a case to the WTO that would result in a ruling that slavery is a threat to health.

6.4.4 The EU should develop and publish an annual country-specific list of goods produced by forced labour in non-EU countries, and specify that the problem must be significantly reduced (if not eliminated) for it to be removed from the list. A useful model is the US Department of Labor's *List of Goods Produced by Child Labor or Forced Labor*. If governments do not respond - for example by implementing a system of inspections and protections - the EU should reduce import quotas from those countries.

6.4.5 Customs Enforcement agencies should be charged with stopping slave-made goods flowing into the EU and given agents to identify these goods. European inspections around endangered species have shown that this can be successful.

6.4.6 To encourage EU and non-EU countries to combat slavery, we recommend that the EU disseminate information about the possibilities for economic growth that ending slavery brings. When people are free, they create a freedom dividend: entire communities prosper. Free people buy food, clothing, education, medicine. Local economies thrive when formerly enslaved people start their own businesses. Freed slaves increase both production and consumption; they are a source of economic growth for countries struggling with recession. Basic economic development comes from anti-slavery measures, and, conversely, anti-slavery success brings economic development. In other words, we don't

just need to combat poverty to end slavery; we need to combat slavery to help end poverty²⁹.

6.5. Slavery Inspectorates

- 6.5.1 Governments must enforce their own anti-slavery laws. To make this happen every country has to understand that they must take action or face serious pressure. Either in conjunction with or instead of the UN Slavery Inspectors proposed in section 4, the EU should encourage EU and non-EU countries to establish Slavery Inspectorates, and lead the way within Europe as an example for non-EU countries, perhaps making the Slavery Inspectorates part of existing national Labour Inspectorate systems and supported by the European Agency for Safety and Health at Work (EU-OSHA), aimed at the industries and economic sectors that are most likely to use slaves. An inspection process would locate slaves and deter 'employers' from their use. The inspectors would help provide data for the annual list of slave-made goods (see 6.4.d). This would replace the *EU Strategy's* plan to merely 'strengthen cooperation with labour, social, health and safety inspectors,' though could build on existing labour inspectorate systems.
- 6.5.2 The verdict of the Slavery Inspectorates should be legally recognised by governments, so that - in addition to prosecution for the individuals who engaged in trafficking and enslavement - business entities will have their license to trade taken away and their property seized until they cease using slave labour. Private banks should be encouraged to refuse them credit until slavery is removed. A useful model for this 'dirty list' is Brazil's 'Lista Suja do Trabalho Escravo'³⁰.
- 6.5.3 To aid the Slavery Inspectorates, the EU might consider harnessing Aeroceptor³¹, an international research project co-funded by the EC, to create anti-slavery drones for collecting information on slavery in EU farms, mines, and other potential site of enslavement, after consultation on relevant privacy issues.

6.6. Law Enforcement and Training

- 6.6.1 As part of both internal and external policy, the EU should help EU and non-EU countries provide better training for law enforcement. Though laws against slavery exist, they are not enforced, in part because only the smallest fraction of police, in almost every country, has been trained to identify slavery. Every police officer needs basic training on slavery and trafficking and how to recognize the warning signs of a slavery or trafficking case. The EU should help produce, translate and disseminate training materials for law enforcement personnel. These materials should emphasize the links between trafficking and other crimes, pointing out which crimes may be strong indicators of the presence of trafficking.
- 6.6.2 EU and non-EU Training guides should also be planned for other individuals who are likely to come into contact with slaves: nurses and other medical staff, public health, utility, restaurant and public facility inspectors, immigration officials, social workers, public lawyers, coroners and medical examiners, neighbourhood watch schemes, transit police.

²⁹ See Robert B. Smith, 'Global Human Development: Accounting for its Regional Disparities,' *Quality & Quantity* 43.1 (2009): 1-34, and Bales and Datta, 'Slavery is Bad for Business,' *Brown Journal of World Affairs*, June 2013.

³⁰ <http://reporterbrasil.org.br/listasuja/resultado.php> (retrieved on 3rd December 2013)

³¹ <http://www.aeroceptor.eu/> (retrieved on 3rd December 2013)

Here the EU might want to collaborate with the IOM on an EU-specific handbook based on the existing IOM Handbook on Direct Assistance for Victims of Trafficking³².

- 6.6.3 Law enforcement agencies at all levels should build a response protocol with local service providers that will ensure victims receive safe and secure housing and care immediately upon their release. This will improve their ability to act as witnesses, thus increasing successful prosecutions.
- 6.6.4 Whenever possible local NGOs and service providers should be included in the liberation process in order to provide immediate assistance to victims, thus lessening the task faced by law enforcement.
- 6.6.5 Even with police training, Eastern European governments especially will face a tough struggle with the corruption that feeds on and fuels slavery. The EU should ask the UN to produce a version of its *UN Anti-Corruption Toolkit* aimed at slavery and collaborate with the UN on anti-corruption initiatives.

6.7. Migrant Labour

- 6.7.1 Slavery should be systematically included in relevant political dialogues on migration and mobility with non-EU countries.
- 6.7.2 The EU needs to begin a systematic regulation of labour recruitment agencies and, within its external policy, the EU should establish a system of labour attachés from countries that send migrant workers (e.g. Indonesia, Nepal, Ethiopia and the Philippines) and those countries that are known to have a significant number of their citizens trafficked into the EU (e.g. Nigeria, China, Paraguay, Dominican Republic). These attachés would be based in the EU destination country and would assist and support their workers. They would disseminate clear information (about rights and where to go for help) to low-wage workers arriving in the EU (particularly domestic workers).
- 6.7.3 Member States should adopt gender-sensitive migration policies to protect women who migrate to be employed as domestic and guest workers in low-wage industries. For example, the EU might amend the requirements for female holders of certain visas to be able to change employers. At present, countries require immigrant domestic workers who hold work visas to remain with their original employer or face removal, making them especially vulnerable to exploitation.
- 6.7.4 Member States should amend provisions of diplomatic immunity to foreign government employees to make them liable for prosecution when they have engaged in forced labour or trafficking.

6.8. Community-Based Action and Networks

- 6.8.1 Rescuing individual slaves can leave the slave-based businesses intact, but when a whole community drives out the slave-takers and slave-holders, freedom is locked in place. In its external policy of funding anti-slavery efforts, the EU should support and scale up successful community-based solutions, because the best and most viable solutions to slavery will be created within the communities where slavery is being experienced.

³² http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=19&products_id=116 (retrieved on 3rd December 2013)

Outsiders can share ideas and resources, but the actual solutions have to be owned by the people fighting for freedom.

6.8.2 In funding community-based projects around the world, the EU should accept the need for flexibility. For example, it may be that six months into a healthcare project, anti-slavery workers realise that it is going to take micro-credit to end slavery. The funder needs to be flexible enough to allow a shift in focus.

6.8.3 To build organisations and coalitions that will have a wider impact, anti-slavery groups and their funders/supporters (including the EU) have to be always thinking about incubating new strategies and then multiplying them. Once a successful community-based strategy is tested, it should be proactively offered to the world like an 'open-source' programme. The EU website³³ could host these ideas.

6.9. Rehabilitation

6.9.1 Member States should enact a statutory policy of non-prosecution of victims of slavery.

6.9.2 In addition to decriminalizing the victims of slavery and trafficking, governments need to provide for their rehabilitation. When slaves are freed but given no support to rebuild their lives, some slide back into slavery. The EU should emphasize to both EU and non-EU countries that it is the role of government to help provide physical security, basic material assistance, medical care, legal assistance, counselling and information to survivors of slavery, taking into account the special needs of children.

6.9.3 Some Member States have a reflection period but it is often too short. A reflection period cannot be three or six months, especially if this time also includes decision-making concerning status. Trafficking and slavery are traumatizing crimes that on average need two to three years of recovery post-victimisation. In addition, many countries have loaded the reflection period with bureaucratic requirements that a survivor must go through to get residence, protection or non-deportation. This means very little time for actual reflection. The EU should ask Member States to extend the reflection period and plan for a period of therapy and healing.

6.9.4 Protocols for working with survivors of slavery should be specifically designed so that they can be shared across agencies and in the wider field (e.g. client intake forms, mental health assessment instruments, and computerized case summaries). Here the EU might want to collaborate with the IOM on an EU-specific version of its handbook *Caring for Trafficked Persons: Guidance for Health Providers*³⁴.

6.9.5 Aftercare providers need agreed and monitored minimum standards of care provision.

6.10. The Needs of Trafficked and Enslaved Children

6.10.1 It is an unfortunate fact that children are often missed when adult victims are found. The EU should emphasise to EU and non-EU countries that child protection officers, teachers, and paediatric nurses should have training in the identification of trafficked and enslaved children. Social workers and others who work with runaway and missing children also need training and coordination in order to identify trafficked children. Police and social service

³³ <http://ec.europa.eu/anti-trafficking/> (retrieved on 3rd December 2013)

³⁴ http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=1&products_id=510 (retrieved on 3rd December 2013)

teams that investigate child abuse should be trained in order to recognise child trafficking and enslavement.

- 6.10.2 Multi-agency teams to identify child trafficking victims should be established at airports and other transit terminals, especially those serving known origin countries for trafficking into the EU.
- 6.10.3 Education on the risks of trafficking should be included in school curricula, as well as resources helping teachers to recognise indicators of trafficking.

6.11. Public Awareness Campaigns

- 6.11.1 *The EU Strategy* observes that the Commission will develop gender-sensitive information campaigns with the Member States and EU-wide awareness-raising activities targeting specific vulnerable groups. This is a good plan, because many people are enslaved through deception. 'Recruiters' hold out the chance of a good job to the economically desperate just long enough to take control of their lives. Against this deception a little information goes a long way, but awareness campaigns have been piecemeal. In Europe, teachers volunteer to work in the developing world, but how many are trained to teach the skills needed to help someone keep their freedom? Great sums are spent developing educational campaigns against teen pregnancy or drug use, but who measures the best way to educate against slavery? The EU should confront slavery in both EU and non-EU countries with awareness campaigns reflecting local cultures and in appropriate languages (produced in conjunction with governments and anti-slavery organisations) in the same way that they would confront a public health crisis. Awareness campaigns could also make migrants more aware of their rights in the countries of destination and where they can turn to for assistance.
- 6.11.2 The EU should also assess the scale and penetration of the awareness campaigns it already supports, e.g. how does the scale of these awareness efforts relate to the need to spread awareness? Would key target populations in key countries and regions have come across these messages? What can be learned from other awareness campaigns focused on behavioural change (e.g. HIV/AIDS)?
- 6.11.3 The EU should redesign its own visual culture with an awareness of the historically important but fraught role of imagery in past and present anti-slavery campaigns. As it has developed over the past decade, much anti-slavery visual culture has reinforced the paternalism that marked the visual culture of the 18th- and 19th-century³⁵ abolitionist movement. With some exceptions, this is a visual culture that minimises slave agency, including via the most common trope in today's anti-slavery visual culture, the supplicant slave. This has its origins in an influential 18th-and 19th-century icon approved by members of Britain's Society for Effecting the Abolition of the Slave Trade and widely used in Britain and the US on broadsides, pamphlet frontispieces, medallions and decorative objects. The kneeling, pleading figure asks humbly for pity and compassion, suffers passively and poses no threat through rebellion or resistance. The image invites not solidarity with the enslaved but paternalistic association with the morally righteous abolitionists who will answer the helpless captive's question ('Am I Not a Man and a Brother?') by releasing his chains. Today, the pleading slave has somehow become the unofficial logo for contemporary anti-slavery. Supplicant hands are raised again in updated form, repeating the message of passivity and

³⁵ <http://www.loc.gov/pictures/item/2008661312/> (retrieved on 4th December 2013)

gratitude. The visual culture of the EU³⁶ and UN³⁷ has this same supplicant slave. There *have* been a few exceptions to this revival of abolitionist paternalism in contemporary imagery. Though ASI uses a raised arm for its logo³⁸, this slave firmly grasps the key to his or her own freedom and raises an arm in victory rather than supplication. The woman in the sculpture used by Free the Slaves as its 'Freedom Award' logo and trophy³⁹ has the outstretched arm of a dancer, not a supplicant slave. We recommend that the EU adopts a similar strategy in its own visual culture: emphasize slave agency, not passive helplessness. It should learn lessons from the 18th- and 19th-century anti-slavery movement's failures and successes, and refuse to replicate the dynamic of victimhood. Here it could take the lead and influence the visual culture of other bodies (including the UN and the U.S. State Department).

- 6.11.4 The EU could also consider using imagery by slaves themselves. Recently, artists and activists have begun to emphasise self-representation. World Vision and PhotoVoice have sponsored photo-advocacy workshops for street children in Pakistan, Lebanon, Armenia and Romania. A 2010 exhibit by photographer and artist Kay Chernush called *Bought and Sold* consisted of images that she made after meeting with former slaves to hear their stories. Chernush, who runs ArtWorks for Freedom, calls her canvasses 're-imaginings' and bases them on the slave narratives she heard. The EU could incorporate this kind of slave self-representation into its visual culture - the imagery in its reports, campaigns, websites⁴⁰.

6.12. The Slavery Lens

- 6.12.1 What many of our suggestions point to is the EU's need for a *slavery lens* in its internal and external policy: **a systematic deployment of existing instruments** of development, trade, networks and diplomacy against slavery. Anti-slavery should be a lens in internal and external policy in the way that gender has become a lens for assessing development programs over recent decades. The EU should consider external policies on debt relief, law enforcement and military cooperation through the lens of slavery. The 'EU Annual Report on Human Rights and Democracy in the World' should include more material - ideally a whole section - on slavery. The new European Endowment for Democracy should factor in slavery to its work. The appointment of the first EU Special Representative (EUSR) for Human Rights in July 2012 was a good step and the EUSR should include slavery as part of his mandate. Foreign aid should be thought through with an anti-slavery focus, some of it targeting the underlying economic desperation that engenders slavery. Applicants for funding should have to respond to the question of how their proposal addresses enslavement within the country, region or community that they aim to help. Though it may be acceptable to indicate that the project will not address slavery explicitly, having to address this question will help members of the development community start to engage in a more systematic way. The EEAS delegations should have anti-slavery projects and relevant EU-financed country projects should have a slavery lens (e.g. projects on poverty,

³⁶ http://ec.europa.eu/anti-trafficking/download.action?nodePath=/EU+Policy/EU+rights+of+victims+of+trafficking_EN.pdf (retrieved on 4th December 2013)

³⁷ http://ec.europa.eu/anti-trafficking/download.action?nodePath=/Publications/UN_Commentary_EU_Trafficking_Directive+2011.pdf (retrieved on 4th December 2013)

³⁸ <http://www.antislavery.org/images/top/logo.gif> (retrieved on 4th December 2013)

³⁹ <http://www.freetheslaves.net/view.image?id=1828> (retrieved on 4th December 2013)

⁴⁰ See also Zoe Trodd, '[Am I Still Not a Man and a Brother?](#)', *Slavery & Abolition* 34.2: 338-352.

children or women at risk, education, refugees and returnees, health, conflict). Very few delegations have explicit anti-slavery or anti-trafficking projects (only the delegations to Cambodia, India, Kazakhstan, Moldova, Russia, Yemen, Zambia and the former Yugoslav Republic of Macedonia). Bearing in mind the high instances of slavery and trafficking in Nepal, Pakistan, Vietnam and Ukraine, it is surprising that there have been no EU-funded projects as part of those particular delegations. As well, Presidents, Prime Ministers, Secretary of State, and any other cabinet level official should include slavery in international visits, high-level meetings and diplomatic efforts. They need to be asking their opposite numbers how they are going to work together to end slavery.

6.12.2 Of particular importance are the funding mechanisms mandated under the European Instrument for Democracy and Human Rights, and the Development Cooperation Instrument. While these two instruments fund a wide variety of work across the developing world, it is worth noting that their combined annual available funding, €18 billion, is larger than the estimated sum needed for the entire global eradication of slavery⁴¹. There are a number of existing areas of investment and grant making within these programmes that have immediate applicability to slavery. Slavery's causal factors of corruption and conflict are both pervasive and strong in the developing world. Vulnerable people are pushed into slavery in post-crisis situations and fragile states - which is an area of specific funding under the Development Cooperation Instrument. That is just one example. Given that slavery is bad for local, regional and national economies, that it is pernicious and hidden in its anti-development effects, and that, on the other hand, it is receptive and capable of eradication by direct intervention; funding anti-slavery work is extremely productive in both outcomes and the stabilizing of developing societies. These relationships are multi-faceted and mutually reinforcing. Universal primary education is a strong bastion against slavery in the developing world, it is also both a Millennium Goal and a goal of EU development funding. The same anti-slavery impact can be expected of support given to governance, democracy, human rights and support for institutional reforms; trade and regional integration; sustainable development through environmental protection and sustainable management of natural resources; sustainable rural development and ensuring food security. Though its funding is much smaller than that of the Development Cooperation Instrument, the European Instrument for Democracy and Human Rights (EIDHR) is more tightly focused on areas that have immediate impact on the issue of slavery. At the same time, it is indicative that the 'Target Groups' listed within the EIDHR grant application forms does not make mention of trafficked or enslaved persons, with the exception of 'child soldiers'. Clearly, a 'slavery lens' might be applied to the funding framework of the EIDHR with significant potential results, both in terms of decreasing the amount of slavery within the developing world and diminishing the possibility that those enslaved in developing countries might be trafficked to Europe.

6.12.3 OSCE in particular could add a slavery lens to its existing mandates: within border management, border and customs officials should be trained to identify traffickers; within conflict prevention and resolution, the process of rehabilitation and reconstruction in post-conflict areas should include anti-slavery work; within education, OSCE's youth projects should include anti-slavery awareness; within minority rights, the promotion rights should include an awareness that minorities are the most vulnerable to traffickers and enslavers; within good governance, the strategy to prevent corruption should include the corrupt law

⁴¹ Bales, *Ending Slavery*, 55.

enforcement officials who enable trafficking and slavery; within gender equality, the mechanisms to empower women should include a slavery lens; within environmental activities, OSCE should recognize the close connection between environmental destruction and slavery.

- 6.12.4 Common Security and Defence Policy (CSDP) missions in governance building, crisis management or foreign police training should have a slavery lens too. When Eurocorps participates in peacekeeping missions, its troops should receive anti-slavery training.
- 6.12.5 The EU Aid Volunteers initiative should include slavery, and volunteers should receive training on slavery identification even if their specific project is not an anti-slavery one. This lens could apply to similar groups in Member States as well, such as the British organization Volunteers in Service Overseas.
- 6.12.6 Slavery should also continue to be a lens for EU migration policy. The EP's 'Employer Sanctions Directive' (2009) is a good example of the slavery lens in migration policy (where trafficking is included in points 22, 23, 27 and Article 9). The provision of information on trafficking at the EU immigration Portal⁴² is another good example, as is the revised Global Approach to Migration and Mobility, which includes the objective of preventing trafficking. In fact, across the whole area of migration policy and dialogue, the EU has systematically included a slavery lens. This could be a model for the inclusion of the slavery lens in other external policy areas (external trade, conflict prevention, humanitarian aid, development and cooperation).

6.13. Location of Control of Anti-Slavery Initiatives

- 6.13.1 The preceding list of anti-slavery initiatives, programmes, areas of focus, and legislation needs to be coordinated. Most individual nation states currently lack a central coordinating office or position, though many are coming to see the need for such a role. There are political calls in the UK for the appointment of an Anti-Slavery Commissioner, so far without success. It is recommended that National Rapporteurs have an enlarged mandate which enables them to coordinate and direct anti-slavery efforts.
- 6.13.2 In this regard the EU has an advantage. The appointment of the ATC was precisely the kind of centralising of control and oversight needed for effective action. We recommend a significant enlargement in the funding and scope of the work of ATC. Staff should be added to the office of the ATC to enable: monitoring and evaluation of anti-slavery programs across Member States; application of the 'slavery lens' to all EU overseas initiatives; extension and management of public awareness campaigns; the specific focus on the safeguarding of children; testing and support of rehabilitative services; support of community responses and the formation of local task forces; design and coordination of training not just for law enforcement, but for all public-facing workers; guiding of national anti-slavery plans; taking the lead on research and information sharing; and serving as a resource for the refinement and specification of both national and EU legislation, internal and external policy.

⁴² <http://ec.europa.eu/immigration/> (retrieved on 3rd December 2013)

7 CONCLUSION

The recent estimate of enslaved people in Europe and the number (the 'dark figure') who are not found by governments or service providers is an indictment of our stated desire for justice and human rights. Put simply, **we are failing to find, liberate, and support hundreds of thousands of slaves who live among us**. No other group of countries on our planet is better equipped to meet the needs of trafficked and enslaved people, yet Europe is falling behind other countries whose economies and rule of law are not as robust, in fulfilling its statutory promise to prevent slavery. Clearly the current approach of the EU is not working. A radical re-thinking is needed, one that rises to the size of this crisis with the same intensity and breadth of effort and resource that would be brought to a threatening epidemic or the outbreak of civil conflict. In comparison, the estimated human cost of slavery, the victims of this crime, exceed the number of people living with HIV in Western and Central Europe. In 2011 the member countries of the EU and the EC provided more than €1.9 billion to combat HIV/AIDS. We have been unable to determine the expenditure of the member states of the EU and the EC in combatting slavery and trafficking, but it is clear that current levels of resourcing are far from adequate.

Yet this situation can be reversed with political will and increased resources. And as more slaves are freed, and Europe becomes slave-free and helps with its external policy the rest of the world to end slavery too, there will be significant returns on the investment in enforcement and survivor care, both in terms of quality of life and economic growth.

If there was ever a tipping-point where we might end slavery, it is now. Many of the great obstacles faced by abolitionists of the past have already been removed. First, the moral argument is already won; every country condemns slavery, and no ethnic majority or powerful religious group argues that slavery is desirable or acceptable. Second, there is no economic argument to be won. The monetary value of slavery in the world economy is very small and slave-based revenues flow to support not national economies or trans-national industries, but small-scale criminal networks. The end of slavery threatens no country's livelihood, and the cost of ending slavery is just a fraction of the amount that freed slaves will pump into economies. Third, there is no legal argument to be won. For the most part, the necessary national and international laws are already on the books. Some of these laws need updating and expanding, some need their penalties increasing, but nowhere on earth is slavery legal. Ending slavery requires the political will to enforce laws, not campaigns to make new ones. We stand at a moment in human history where our economies, governments, understanding, laws and moral beliefs are aligned in a constellation that can bring slavery to an end. When the public, governments and international organisations make it a priority, we can achieve a continent, and ultimately a world, without slavery.

Table 1 The Dark Figure for Trafficking/Slavery in Europe (estimate of the number of slaves for each country, the number of officially reported victims, and the estimate of the number and percentage of unreported victims); from Monti Narayan Datta & Kevin Bales, 'Slavery in Europe: Part 1, Estimating the Dark Figure,' *Human Rights Quarterly* 35.3 (2013).

Country	Slaves	Reported Victims	Dark Figure	Dark Figure%
Albania	10,800	97	10,703	99.1
Armenia	10,683	22	10,661	99.8
Austria	1,069	62	1,007	94.2
Azerbaijan	34,144	34	34,110	99.9
Belarus	11,715	362	11,353	96.9
Belgium	1,357	130	1,227	90.4
Bosnia & Herzegovina	13,952	25	13,927	99.8
Bulgaria	26,727	432	26,295	98.4
Croatia	16,112	14	16,098	99.9
Czech Republic	36,603	83	36,520	99.8
Denmark	721	53	668	92.6
Finland	684	48	636	93.0
France	8,532	726	7,806	91.5
Georgia	16,439	n/a	n/a	n/a
Germany	10,570	651	9,919	93.8
Greece	1,400	92	1,308	93.4
Hungary	35,816	10	35,806	100.0
Iceland	41	8	33	80.4
Ireland	331	78	253	76.4
Italy	7,964	2381	5,583	70.1
Luxembourg	66	8	n/a	n/a
Moldova	34,236	169	34,067	99.5
Montenegro	2,364	n/a	n/a	n/a
Netherlands	2,175	993	1,182	54.3
Norway	612	319	293	47.9
Poland	138,161	278	n/a	n/a
Portugal	1,402	8	1,394	99.4
Romania	24,731	1154	23,577	95.3
Russia	512,566	100	512,466	100.0
Serbia	26,170	76	26,094	99.7
Slovakia	19,720	38	19,682	99.8
Slovenia	7,181	31	n/a	n/a
Spain	6,116	1605	4,511	73.8
Sweden	1,183	74	1,109	93.7
Switzerland	1,030	46	984	95.5
Ukraine	111,064	n/a	n/a	n/a
United Kingdom	4,413	427	3,986	90.3

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