



# ARCHIWUM KRYMINOLOGII

## Archives of Criminology

Zbigniew Lasocik ■

## Is research on forced labour at an ‘early stage’? Introduction to the special issue

### Czy badania nad pracą przymusową są rzeczywiście na „wczesnym etapie”? Wprowadzenie do numeru tematycznego

**Abstract:** Writing about the progress in the fight against forced labor, the UN Special Rapporteur on Trafficking in Human Beings Maria Grazia Giammarinaro in 2020 said that were still at an “early stage”. It may be surprising if we take into account that International Convention on this issue was adopted over 80 years ago. Forced labor has two basic components: the labor exploitation and migration – both of them socially distressing. But from the point of view of the public life, the most painful is the juxtaposition of two figures: 40,000,000, i.e. estimation of the global number of victims of various forms of enslavement, and 100,000 – this is more or less the number of victims identified yearly by law enforcement agencies around the world. Even so, many countries still do not have any policies to combat forced labor but the interest of politicians is weakened by the needs of economic development. Finally, this non optimistic picture is combined with relatively low level of awareness of many social groups and the prevailing false belief that the real problem is the sexual exploitation of women and children. These were the reasons why we considered the publication of a Special Issue of the Archives of Criminology as necessary. The articles in this volume offer a number of interesting reflections and bring many innovative ideas.

**Keywords:** forced labour, number of victims, exploitation, public awareness, innovative ideas

**Abstrakt:** Pisząc o postępach w walce z pracą przymusową Specjalny Sprawozdawca ONZ ds. handlu ludźmi Maria Grazia Giammarinaro w roku 2020 użyła określenia, że ciągle jeszcze jesteśmy na wczesnym etapie. To może dziwić, skoro konwencja dotycząca tej kwestii liczy sobie ponad 80 lat. Praca przymusowa to w istocie dwa zjawiska: eksploatacja cudzego trudu i migracja – obydwa społecznie dolegliwe. Ale z punktu widzenia praktyki życia publicznego najbardziej frustrujące jest jednak zestawienie dwóch liczb: 40.000.000, czyli globalna liczba ofiar różnych form zniewolenia i 100.000, mniej więcej tyle ofiar identyfikują rocznie organy ścigania na całym świecie. Mimo to,

wiele krajów nadal nie ma żadnej polityki zwalczania pracy przymusowej, a zainteresowanie polityków jest osłabiane potrzebami rozwoju lokalnej gospodarki. Na ten mało optymistyczny obraz nakłada się relatywnie niski poziom świadomości wielu grup społecznych i dominujące przekonanie, że prawdziwym problemem jest eksploatacja seksualna kobiet i dzieci. Oto powody dla, których wydanie specjalnego tomu Archiwum Kryminologii uznaliśmy za zadanie aktualne i potrzebne. Zamieszczone tu artykuły zawierają szereg interesujących refleksji i przynoszą wiele nowatorskich pomysłów.

**Słowa kluczowe:** praca przymusowa, liczba ofiar, eksploatacja, świadomość społeczna, innowacyjne pomysły

In July 2020, the UN Special Rapporteur on trafficking in persons presented a report to the Human Rights Council summarising her term. During her presentation, Maria Grazia Giammarinaro said that 'results have been achieved, especially in the field of sexual exploitation, and especially in countries in which good cooperation with civil society organisations has been established. However, the fight against trafficking for labour exploitation is still in an early stage' (Fight 2020). In the same statement, the UN expert said that 'exploitation is becoming a systemic component of economies worldwide' (Fight 2020). Both of these concise statements are very serious, and taken together they must be treated as an important challenge for anyone who is not indifferent to the shape of our civilisation.

The term 'early stage' may be surprising if we take into account that the definition of forced labour was formulated as early as 1930 (FLC 1930). After that there were several important ILO conventions regarding this problem (International n.d.); decades later forced labour was featured in several key international documents. These include the Palermo Protocol (Trafficking Protocol), which was adopted in 2000 and specified the role of forced labour in the definition of human trafficking (Protocol to Prevent 2000). One year later, the European Commission noticed the increasing problem of forced labour, referring to the phenomenon of slavery (labour exploitation in conditions akin to slavery; Trafficking in Women 2001), and finally, in 2002, the International Labour Organization published a report in which it stated that in a way, focussing on sexual exploitation diminishes the significance of the problem of forced labour and its social consequences (Forced Labour 2002). A few more years then passed, whilst the problem of forced labour appeared more frequently in public debate in Europe and around the world, for example, in the 2014 Protocol to the ILO Convention (Protocol 2014). So, why it is an 'early stage'?

When inviting potential authors to participate in the Special Issue of the *Archives of Criminology*, we wrote

forced labour is recognised as one of the most difficult social and political challenges of the contemporary world. It can take the form of labour imposed by state Authorities, and exploitation occurring in the private

sector. The ILO estimates that almost 90 per cent of forced labour today occurs in the latter situation. [...] Nearly half of the victims of forced labour (around 10 million) migrated before their exploitation, both internally and across borders.

These are only some examples of statements on forced labour that go unquestioned because they have been backed up by numerous studies and analyses (Ending 2018; *Globalslaveryindex.org* 2018). However, our knowledge on forced labour still has serious gaps (Winterdyk, Jones 2019: 5), and we do not know the actual scale of this phenomenon (Lasocik 2012). This is why we are willing to use estimates prepared by international institutions and NGOs (Global Estimates 2017; *Globalslaveryindex.org* 2018). We have only begun doing this recently, because there were no data on the topic even in the early 2000s (Profits 2014: 5).<sup>1</sup>

In criminology, the practice of estimating the scope of unknown criminal behaviour has been around for a long time. To this end, the 'dark figure' of crime is used; this is the estimated number of committed crimes that are never reported to law enforcement authorities. In the case of modern slavery, things are completely different, because it is not the number of crimes that are estimated, but the number of victims of slavery and exploitation. This is mainly because in modern slavery, the main category is not the crime, but its victim – including classification as a victim of a human rights violation. On the other hand, a characteristic of forced labour is the fact that the number of victims is often significant, and so the recording of a single act has little cognitive value. Estimating the number of victims, on the other hand, is quite useful (Błachut, Gaberle, Krajewski 1999: 227).

In recent years, attempts have been made to establish the actual number of victims at the global,<sup>2</sup> regional (Trafficking in humans 2014; Data collection 2018), and national levels (Handel ludźmi 2018). In the light of the data published in the latest reports of the US Department of State, this number does not exceed 100,000 people annually around the world; in Europe, it has remained steady at approximately 10,000. If we compare these values with the estimates, which show that there are approximately 40 million victims of slavery around the world, it is clear how ineffective the systems for victim identification are. This comparison also allows us to notice a known, but interesting regularity. The estimates show a clear prevalence of the number of victims of forced labour over the number of victims of sexual exploitation (*Globalslaveryindex.org* 2018), while this proportion is reversed in the data on the actual number of victims (Trafficking in human 2014: 29; TIP Report 2019: 38). Some data regarding Poland also confirm this rule (Handel

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<sup>1</sup> It could also be noted that the Department of State's annual Trafficking in Persons Report (TIP Report) did not provide any dedicated data until 2007, see: <https://www.state.gov/trafficking-in-persons-report> [18.07.2020].

<sup>2</sup> The main source of data is mentioned the Trafficking in Persons Report [TIP Report] published by the US Department of State; it collates data on the number of victims identified around the world.

ludźmi 2018: 33). In other words, based on the estimates, we would determine that the predominant phenomenon is forced labour, whilst based on the process data we would say that it is sexual exploitation. Despite it being an important issue, it is usually just noted without any deeper commentary, even though, for example, the latest UN Global Report is devoted to the problem of data (Global Report 2018).

This observation gives rise to two crucial questions. Firstly, which of these pictures tells us more about the reality? Is it the one based on estimates, or the one built on actual data? The answer is important, because if our estimates are incorrect, it will lead us to incorrectly state that there are more victims of forced labour. However, if we identify more cases of sexual exploitation because it is, quite simply, easier to do, we will also distort reality.

Secondly, which of these pictures of reality should set the most-urgent tasks of state authorities, law enforcement agencies, and civil society? Should forced labour be the focus because there is likely more of it, or should we give priority to sexual exploitation because it is clearly dominant in the actual data?

Adequate answers to the important questions presented above should be preceded by a thorough reflection on the subject, numerous empirical studies, meetings of experts, and publications which offer an opportunity to exchange information and opinions. This was the purpose behind this Special Issue. Our intention was to publish specially prepared papers which, going beyond the typical thoughts about international standards and definitions, could make us well-acquainted with the issue of forced labour as a social problem, affecting specific people in specific places. In our belief, such knowledge – relying on facts and empirical evidence – is essential for the quality of a scientific debate as it sets it in the reality, which has been, for a number of years, overlooked.

However, this knowledge, as mentioned before, may also have a clearly practical value, for example, when the formation of state policy with respect to forced labour is concerned. This is a serious problem, due to the fact that many countries simply do not have such policy, and if they do, it is merely ostensible or illegible.<sup>3</sup> It often happens that there is a policy for eliminating human trafficking which refers to forced labour only in a certain scope. However, in many cases the assumptions of such policy rely on knowledge about sexual exploitation or the experiences of law enforcement agencies in combating the phenomenon (Brysk 2011). It is difficult to consider such a state of affairs to be proper. I have noted with great satisfaction that this theme transpires in several papers published in this volume.

Another aspect of the practical dimension of answering these questions is the actual engagement of public institutions (police or social) in identifying forced labour cases, efficiently eliminating this phenomenon, and effectively preventing it. As mentioned above, modern countries have not recorded any spectacular successes in any of these areas, because the estimated number of forced labour

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<sup>3</sup> Numerous arguments confirming it are presented in my study published in this volume: Z. Lasocik. Forced labour - well-hidden mechanisms of dependence and enslavement.

victims still remains high. The authors of the texts included in this publication discuss the difficulties encountered at all stages of fighting against forced labour. However, they unanimously agree that an efficient fight starts by identifying forced labour victims – and this still remains a significant problem. Another difficulty, as Ricard-Guay and Hanley claimed, is that 'labour trafficking is still often off the radar of law enforcement' (2019: 292).<sup>4</sup> Obviously, one can stop with this negative, yet just statement, but we do not wish to do so; instead we have to ask about the cause of this state of affairs. Namely, why is this the case? One of the causes enumerated by the authors is the limited awareness and knowledge about forced labour among the police (Ricard-Guay, Hanley 2019). Once again, it is difficult not to agree with such a claim, but this state of affairs also requires clarification, i.e. why is the knowledge of various institutions lacking and why is their engagement in the prosecution of forced labour perpetrators very limited? Given the fact that in our conviction these are important questions, we appealed to the potential authors to include these issues within the range of their interests and analyses. Our appeal was well-received, and the readers can easily verify it by reading the Special Issue.

The volume comprises eleven articles selected in a process that is typical for a scientific journal. We noted with great satisfaction that many abstracts of excellent papers were delivered to us; nevertheless, the limited capacity of the Special Issue forced us to make a selection. We are deeply convinced that we conducted it in the best way possible, being guided by the premises of the publication as formulated in the Call for Papers, as well as the need to enrich our knowledge about forced labour. This need, measured by the number of questions that we had to answer, is huge, as mentioned above. The list of dilemmas that have to be settled is extensive, whereas looking at the estimated scale of the phenomenon of forced labour, one can justifiably surmise that the problem is serious. Furthermore, we have to deal with the backlog that results from the fact that forced labour, well-hidden behind the façade of gainful employment and the building of collective affluence (The role n.d.), has efficiently evaded the sight of politicians, societies, and researchers. Observing this fact, Cockbain and Bowers concluded concisely that 'most of the attention to date has been on sex trafficking of women and girls leaving ... other trafficking types comparatively overlooked' (Cockbain, Bowers 2019). When choosing the papers, we also took into account the complementarity of their content. In our belief, all papers refer to the key problems of forced labour and the problems tackled herein show the extensiveness of the phenomenon, along with the significance of every new element of common knowledge. The creativity and innovation of the authors also testifies, in my opinion, to the intensity with which the key to the proper description and understanding of the essence of forced labour is being searched for. Likewise, it is also necessary to mention that the selected papers describe the situation in dozens of countries, a fact which,

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<sup>4</sup> It is quite telling that the subchapter which features the quoted discussion was titled 'Labour trafficking: Still under-detected? Or rather called by another name?' I will return to the last question in detail in my paper presented in this publication.

in some respect, offers a sample of various cultures and political systems. Even though this was not the criterion, the geography within the studies and the entire volume is greatly interesting.

Taking all of the above into account, we would like to express the conviction that even the most demanding reader will find the discussions herein valuable and that they provide an intellectual opening of the next stage of the debate about this issue. In order to facilitate the task, let us present a brief review of the contents of individual papers.

Let's start with the article written by Katharine Bryant and Bernadette Joudo from Australia, which takes up the subject of girls at risk of forced labour. Two important aspects of the article should be highlighted. First of all, the practical one is the fact that the text contains a valuable analysis of the preventive programmes focussed on forced labour and addressed to young girls (adolescents). Secondly, the methodological aspect is that the paper was based on the analysis of one of the largest databases at the disposal of an NGO called Walk Free Foundation. The authors conclude that evaluations of interventions tackling modern slavery and the exploitation of adolescent girls have largely focussed on programmes to prevent child marriage and to support those in commercial sexual exploitation. Only a few evaluations of programmes that tackle forced labour have been conducted, and even fewer have focussed on the garment industry – despite that fact that women and girls represent majority of the victims.

The second article is a classic legal and comparative analysis pertaining to the United Kingdom and Belgium. Amy Weatherburn outlines similarities, differences, and challenges to ensuring a clear understanding of the meaning of labour exploitation in the context of human trafficking. She makes it clear: it is a term (not legal) that is often attributed to forms of exploitation that involve the exploitation of the work or services of an individual. The in-depth analysis of court files presented by the author leads to the creation of a catalogue of features which facilitate a proper understanding of exploitation, in the common, legal, and court meanings of the word. Precision in the understanding of exploitation can also lead to more efficient prevention. Here, I stress the term *meanings*, which is used in the article and which will appear later in a slightly different context.

In another paper, Julia Muraszkiewicz tells the story of several hundred Poles who were used for forced labour in Great Britain. Given the scale of the crime and the number of victims, the case was considered the gravest in the history of the country. The author brings to light specific features of the case: the existence of a well-organised crime group – comprised primarily of Poles, the ethnic uniformity of the perpetrators and victims as one of the features of forced labour, and the fact that the work performed by Poles was legal, though everything surrounding it was not. The complexity of this case, and many others, is illustrated by two phenomena: the criminals who exploited victims consisted of eight individuals who were a family network made up of parents, siblings, cousins, and friends, and the victims were found thanks to public media, being recruited through legitimate



recruitment agencies and forced to work by the traffickers. The case was disclosed thanks to the effective operation of law enforcement authorities.

A text written by Rita Haverkamp referring to Germany shows how the social infrastructure adjusts to the market's needs. When migrants from Bulgaria (of Turkish origin) started to arrive in Munich, a day labourer market came into being at the main train station. This is a meeting place for those who offer the work of their hands and those who need such hands to perform some work. The situation of day labourers is very complicated. On the one hand, they experience considerable hostility even from the Turkish community in the train station district, but on the other hand, they receive support at the advice café of the Information Centre for Migration and Work. The author asks a very important question: Is the existence of such a market a criminal or societal problem, and what should be done about it? The text also features the category of the grey zone, to which other authors also refer.

The next article, by Szandra Windt, is about Hungary. Forced labour in this country, as anywhere else, affects the spheres of the economy which are weakly regulated: seasonal work in agriculture, cleaning, or construction. The topic itself, however, is ignored: there are very few research studies and most of them deal with child labour and/or migrants' illegal work. The author's analysis shows that Hungary is a country to which all regularities established in other countries apply: there are very few criminal cases, cases of sexual exploitation prevail, most cases were initiated by the victims, the perpetrators are typically adult men, the occurrence of debt is quite common, there is very little information about the victims, the perpetrator and the victim often knew each other, and poverty is geographically distributed and thus more vulnerable to exploitation. This paper also features the grey zone phenomenon presented in other papers, yet we also find the thesis that forced labour is more difficult to detect than sexual exploitation – this theme will return.

The starting point for the next paper, penned by Masja van Meeteren, is the thesis that there are still very few studies tackling the issue of forced labour. Therefore, some general statements about human trafficking were made on the basis of sexual exploitation.<sup>5</sup> However, in the Netherlands the number of confirmed cases of forced labour is high enough to allow for comprehensive studies on this subject. The great value of this article is that it is based on very interesting empirical research, namely an explorative analysis of over 80 investigative case files. Many of the author's claims and arguments are valuable for the process of creating empirically verified knowledge about forced labour. Let me mention just one: the involvement of organised crime groups in labour trafficking is limited.

The paper devoted to the USA and Thailand features one of the most important issues of migrant employees, namely the issue of the real 'freedom' of an individual who signs an unjust employment contract. The authors, Sudarat Musikawong

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<sup>5</sup> This issue is also featured in other articles.

and Panida Rzonza, ask the important question of whether in the case of debt bondage there is any freedom at all. By merging an academic perspective with that of a practicing attorney, the authors present a proposal for redefining labour trafficking categorising common harms, yet measurable through a scale of intensity. They also argue that anti-trafficking legislation in the US and Thailand is expansive in definition, but its application is too restrictive to ensure justice for the victims. Finally, they claim that rigorously enforced provisions prevent effective prosecution of the perpetrators of forced labour. The paper also features the issue of political pressure exerted by the US government on the governments of other countries via its TIP Report (State.gov n.d.).

The author of the next paper, Nicoletta Policek, tackles the issue of child labour in Italy, which appears to be an everyday reality. The ILO estimates that the number of working children in this country is around 300,000. The main reason why young migrants are forced to work there is extreme poverty, but some of them work off their parents' debt to come to Italy. Child labour is also an adaptive tool of inclusion, but it often means abandoning education and a straight path to a life of crime. The author analyses this phenomenon through the prism of contemporary slavery and proves that 'seemingly innocent' child labour can easily become oppressive. The article shows that even the most subtle forms of abuse of children's vulnerability should be treated as exploitation.

A recapitulation of sorts of this difficult issue is provided by the paper by Vernon Murray, Julia Solin, and Holly Shea. The authors propose an interesting model of typology for forced labour victims. This theme, which is extremely important in the debate about forced labour, appears here in reference to three large countries: the United States, Russia, and Indonesia. The criteria for drawing up victim types are related to the mode in which they 'enter' into a dependence relation and why they remain in the situation (voluntarily or not). The authors explain the usefulness of a labour trafficking typology with prescribed marketing and the '3 Ps' of strategic intervention. According to the researchers, an appropriate determination of victim profiles in individual countries can designate the type of intervention that will guarantee the most effective prevention.

Drawing on the practical experience of a novel not-for-profit programme created in Colombia (i.e. *Passos Libre*), Sebastián Arévalo Sánchez, Juan Pablo García Sepúlveda, and John Winterdyk present a descriptive overview of how to use an innovative learning approach to educate and seek 'solutions' to effectively combat human trafficking and forced labour. The authors also describe how the design thinking model can support and complement the ongoing educational efforts on addressing the risks of combatting human trafficking. The article shows the merits of using a new learning method and instruments to address the complexities of combatting forced labour and human trafficking and creating richer learning environments beyond current awareness-raising activities. The authors argue that this socially important goal can be accomplished by teaching innovative and creative design thinking focussed on other people's



needs. On the other hand, they promote innovation camps as a comprehensive and multidisciplinary process by which economic, social, technological, cultural, and environmental challenges can be addressed. Although it is a descriptive case study of but one innovative approach to combatting human trafficking (and forced labour), the article serves as an example of how we can, and perhaps need to, explore new strategies for combatting the enigma of human trafficking.

Finally, a few words about the paper that closes this volume – this is my attempt to look at the issue of forced labour from a completely different perspective than the one that dominates the scientific discourse. The existing approach includes several commonly accepted elements, such as political responsibility for the social order, the criminal justice response, or the quality of social assistance. Referring to humanistic sociology, I try to designate a new area to which the discussion about the understanding of forced labour could be transferred – this is an area of awareness, human mentality, and commonly agreed meanings. Looking at the more or less successful attempts to describe forced labour, I also propose a new, interactionist model for analysing this phenomenon, where the key roles are played by the social visibility of the phenomenon of forced labour and cultural taboo.

I am hoping that even such a brief presentation of the content of this Special Issue will convince the readers that the texts contained within it are a mosaic of important and interesting problems and offer a wealth of arguments and innovative analytical approaches. I have no doubt that this is a fascinating read and that it will also provide an incentive for further thoughts and further research. If this happens, we can say that the goal of publishing this volume has been accomplished.

At the end, I must make one comment concerning the terminology used to describe the focus of this Special Issue – that is, the term forced labour. As can be noted when reviewing the literature, and as expressed in various articles in this Special Issue, there are several terms that define a situation in which one person, to some extent, forces another person to work. Sometimes this situation is simply referred to as forced labour, while at other times it is referred to as trafficking for the purpose of forced labour, or simply as labour trafficking. Given that there is no consistency in the use of the term in the extent literature, we have not made any attempt to standardise the language so as to reflect the contextual intent of the contributors. A term that is not found in any of the articles, but which has been used to describe people who are forced to work against their will (e.g. slavery, prison work, debt slavery, etc.) is *unfree labour*.

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And one more remark must appear here, because the time when this publication was created was exceptional. Our work began in the spring of 2020, when the whole world was ‘plunging into the gloom’ of the COVID pandemic. The authors were submitting articles in the autumn, when the scale of the pandemic was beyond our imagination. The disease did not spare the authors of the papers published here. Some of them created their pieces during a serious illness, some sent new versions of their articles from their hospital bed; sometimes family members helped. I pay tribute to all of them with words of appreciation because they were heroic. Finally, the Special Issue was published at the end of the pandemic, Spring 2021. However, I hope that its promotion and true scientific life will begin when the pandemic ‘dust settles’.

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Taking this opportunity, I would like to thank all the people who have contributed to this publication. First and foremost, I would like to thank the authors who devoted their valuable time and presented us with their outstanding work. I would also like to thank the co-editors of this volume, Professor John Winterdyk and Dr Marcel van der Watt. Without their immense engagement and precious assistance, this success would not have been possible. Last but not least, I would like to thank the team of the *Archives of Criminology*, namely Professor Witold Klaus and Dr Justyna Włodarczyk-Madejska, for the idea of this Special Issue, for coming up with the funds for its publication, and for entrusting me with the role of guest editor.

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