

Turning the Tide Together on Forced Labor:
An Ethical Examination of the Coalition of Immokalee Workers' WSR Model

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I wish to thank the OSCE and the Alliance Against Trafficking in Persons for the invitation to be with you.

Your Excellencies, Madame Ambassador, ladies and gentlemen, over the last twenty years we have learned more about the magnitude and nature of forced labor than we've ever known before, thanks to the tireless work of so many gathered here.¹ The ILO's figures of 21 million people in forced labor and 150 billion USD annually in illegal profits from forced labor are sobering² and Ambassador Jarbussynova laid out a myriad of ethical challenges for us in her keynote address.³ And there are times when it may feel as if our efforts to combat and prevent forced labor are swimming against a current more formidable and invidious than we ever imagined. We know we must do more than stem the tide of forced labor. We know we must do more than prosecute cases after the fact, after lives have been destroyed and profits made. We know we must get to the point of prevention. But we can begin to wonder, is it possible?

And I stand before you today with a clear message: it is possible.⁴ It is possible to turn the tide and get to the point of preventing forced labor in business supply chains. And this is not inspirational

¹ ILO 2012 Global Estimate of Forced Labour, Executive Summary, http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---erdeclaration/documents/publication/wcms_181953.pdf (accessed 10/31/14).

² *Profits and Poverty: the Economics of Forced Labour*, ILO, 2014, p. 13.

³ *Keynote Address, 14th Alliance Against Trafficking in Persons Conference, "Ethical Issues in Combating and Preventing Human Trafficking,"* Ambassador Madina Jarbussynova, OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, SEC.GAL/172/14 27 October 2014.

⁴ The ethical assertion "it is possible" must be the foundational ground for our work to combat and prevent forced labor and trafficking in human beings. This assertion is true (and verifiable) in the case of what the Coalition of Immokalee Workers has accomplished through the Fair Food Program. But importantly, "it is possible" is an ethical assertion about our capability and responsibility as human beings to restructure supply chains, policies, cultures and practices toward eradicating and preventing forced labor and human trafficking. While we would find the notion that "a little slavery is OK," abhorrent, there still remains a malaise about certain industries, particularly agriculture, fishing, and mining, that have "always been horrible," and so it becomes strangely (unconsciously?) acceptable that forced labor and trafficking will always be occurring. We hear speeches about "stemming the tide" but rarely do we hear speeches about "turning the tide." Forced labor and trafficking in human beings isn't a mystery, it is a result of how we as human beings have ordered our life together through economic, political, and cultural systems. Since we have constructed these edifices we can and should undo and restructure them so that they uphold the rights of all. Of course, the assertion "it is possible" should not be confused with the assertion "it is easy!" Forced labor and trafficking in human beings encompasses a complex set of behaviors, occurs in a wide variety of settings, and involves children, women and men. But when we are all oriented toward solving the problem and prepared to bring our resources to it, then, the CIW's experience suggests, it may not be as hard as we thought. The CIW's Worker-driven Social Responsibility model aligned core actors in the Florida tomato industry to bring about what, for generations, had been almost unimaginable, an end to exploitation in the fields. But it was not unimaginable to the farmworkers, not because they were optimists, but because, as co-founder Lucas Benitez once put it, "when you're in the desert and you need water, you search for water." The ethical imperative "it is possible" rightly orients us to our ethical obligation as states, corporations, international organizations and civil society to eradicate and prevent forced labor, following the lead of workers, the rights holders themselves, who have

oratory, because we don't need one more passionate speech that is not matched with real advances.⁵ Nor is this hyperbole, because inflationary claims harm trafficked persons and hobble our work.⁶ I say it is possible because, in one industry, it has already been accomplished.

In the United States, the Coalition of Immokalee Workers' Fair Food Program has utterly transformed the Florida tomato industry in three years. A handful of years ago a federal prosecutor called Florida "ground zero for modern-day slavery." Now there are zero cases of modern-day slavery in the Fair Food Program. The Program is setting the gold standard of prevention for forced labor in U.S. agriculture.

lived in this complicated snarl of rights denied, degraded, and violated and know how to untie this Gordian knot. I am grateful to the OSCE for their summons to this conference on prevention of forced labor and human trafficking, which properly frames and catalyzes our work not only during this conference but beyond.

⁵ When I say "inspirational oratory" I mean those types of speeches which are calculated to refer back to themselves and their orators— speeches whose entire *raison d'être* are satisfied in their delivery; speeches which preoccupy us with ourselves and our reputations and not with the challenging task at hand; speeches whose objective is to ennoble us in order to relieve our discomfort or to argue, silver-tongued, that we do not bear fundamental responsibility as human beings and as states one-to-another for ensuring our common well-being, rather it is a matter of "a few bad apples" who must be rooted out, while core systems that enable forced labor and trafficking in human beings remain in operation. And have not all of us heard such speeches by politicians, clergy, business executives, "experts" from NGOs, leaders of advocacy campaigns etc.? Such speech is dangerous because in its purported ethical passion, it insidiously obviates our ethical responsibility. We dare not forget that speech itself is an act; it doesn't just lead to action. Words are not "just words," they create our world as much as they describe it. That is why "inspirational oratory" is so dangerous. Positively, diplomatic speech, for example, is an important alternative act to military action, both creating space to hear other viewpoints and negotiating a way forward toward common good. And interestingly, speech can also occupy a necessary imaginary space – a subjunctive territory – where, by talking about pressing issues before us we "try out" and "try on" different ways of being in and acting upon our world for the purpose of exploring our responsibilities. The "inspirational oratory" with which I am concerned, however, is neither diplomatic act nor subjunctive evaluation, rather "inspirational oratory" makes claims that are designed to avert, rather than cultivate, ethical responsibility.

⁶ Hyperbolic speech, which makes exaggerated claims without hard evidence to support them, is a species of "inspirational oratory" but specifically functions to obscure what it should be endeavoring to reveal thus depriving us of the opportunity to better understand the real challenges we *do* face. "Hyperbolic speech" makes empty claims to progress while problems continue unabated (or little abated) and can dangerously divert necessary attention and resources, harming not only our efforts against forced labor, but also our sisters and brothers who are in forced labor. That harm may come in the form of overlooking them entirely or (think here of how we failed for so long to notice the extent of men and boys in forced labor for both labor and sex exploitation or missed trafficking for the purpose of organ removal) through the diversion of budgetary resources by states to ineffective but widely praised efforts. Hyperbolic speech is on the rise, particularly through social media and internet-based reporting where the turn-around time for publication is hours (or minutes!), leaving little time for research and critical evaluation beyond the echo chamber. It can also take place in government circles when there is pressure to come up with data to support particular policies – in other words, when policy is not driven by what is happening on the ground, but by ideological commitments or political opportunism. "Hyperbolic speech" can also be seen in "zero-tolerance" approaches to combatting forced labor. Many codes of conduct and, increasingly, public policy measures, have "zero-tolerance" clauses regarding forced labor and human trafficking in supply chains – clauses designed to emphasize the seriousness of the crime and the utter commitment of the corporation or the state to ending it. But when these zero-tolerance policies are not backed up by: (a) rigorous monitoring and (b) a binding commitment to cut purchases from verified involved suppliers, they become, as Shakespeare eloquently put it, "sound and fury signifying nothing."

Now getting to the point of prevention took the Coalition of Immokalee Workers and their allies twenty years – this didn't happen overnight, but over time. But now that the Coalition has given birth to a new and proven model for the protection of human rights, called Worker-driven Social Responsibility, it doesn't need to take others twenty more.

The CIW's new Worker-drive Social Responsibility model, or WSR, begins with the ethical premise that workers, the rights holders whose rights are in question, must be the architects of, not the object of programs to eradicate human rights abuses.⁷ And the Fair Food Program is the model's proven operational example.

The Fair Food Program is a ground-breaking collaboration among farmworkers, 30 agribusinesses representing more than 90% of the \$650 million Florida tomato industry, and twelve multi-billion dollar food retailers, who together are upholding a comprehensive set of worker-designed, market-enforced, interlocking rights for tens of thousands of workers. The Program not only has eliminated forced labor, but has also ended sub-poverty wages, sexual violence and worker vulnerability in which forced labor takes root.

Because the program has been designed by workers who themselves suffered abuses for so long, it is uniquely effective in embedding and enforcing rights in concrete workplace reforms that deliver real results. Corporations, in turn, back up these rights by preferentially purchasing from growers who consistently uphold standards and suspending purchases from growers who fall out of compliance – including an automatic suspension for zero tolerance violations including forced labor and sexual assault. Swift and severe market consequences give growers a strong incentive to police their own operations. The program is monitored by the Fair Food Standards Council; the first industry-wide monitor of its kind in US agriculture. Staffing a 24 x 7 hotline in multiple languages which triggers investigation and corrective action plans, undertaking audits that range from 2 days to two weeks where more than a 50 percent sample size of the workforce is interviewed on and off site, and with auditing of management processes to fix systemic abuses, the Council's intensive monitoring is without parallel. Because of the Fair Food Program's design, monitoring and enforcement, in the unlikely event forced labor were to occur, it would be quickly identified and eliminated. Further, the Program has an unequalled level of transparency through its website, its annual report and its new label "consumer powered, worker certified" – allowing consumers to verify that the tomatoes they're purchasing are being sourced from growers who respect workers' rights.

The Fair Food Program provides matchless risk-management for growers and verifiable brand protection for corporations -- true ethical sourcing. But most importantly, the Program has created a humane workplace where workers are treated with respect, where they work without fear, and where their freedom is protected. As one worker put it succinctly, "Our dignity is being restored through this program."⁸

The Coalition of Immokalee Workers, is a worker-based, human rights organization that has been internationally recognized for its achievements with the 2014 Clinton Global Citizen Award, the 2013 Roosevelt Institute Freedom From Want Medal, the 2010 US State Department Trafficking in Persons Hero Award, and the 2007 Anti-Slavery Award from Anti-Slavery International.

The Coalition or CIW is based in the town of Immokalee, Florida. Situated between the Florida swamps and the wealthy gulf coast city of Naples, Immokalee is more a labor reserve than a town, where immigrant workers reside as they harvest, principally, tomatoes. For generations these men and women faced abuses that workers at the base of multinational supply chains face every day: sub-poverty wages, no overtime, stolen wages, sexual harassment and violence, and, in extreme instances, forced labor.

⁷ "Worker Driven Social Responsibility: A New Idea for a New Century," by Greg Asbed, June 16, 2014, <http://ciw-online.org/blog/2014/06/wsr/> (accessed 10/18/14).

⁸ Fair Food Program Report, 2011-2013, Fair Food Standards Council, November 2013, p.21.

Farmworkers formed the CIW in 1993 to end all of these abuses. CIW identified some of the country's earliest cases of forced labor that led to the passage of the Victims of Trafficking and Violence Protection Act of 2000. Through careful investigation, daring rescues, and intensive collaboration with law enforcement, CIW freed over 1,200 people and assisted the US Department of Justice and FBI in prosecuting seven cases of forced labor.

While the Coalition continued day-to-day slavery investigations, worker empowerment and education, and training of law enforcement personnel to identify and assist trafficked persons, they knew the key to prevention of forced labor and other abuses lay on the demand-side of the US produce market, with large corporate buyers.

Because of consolidation in the food industry, retailers are able to demand ever-lower prices from their suppliers, placing downward pressure on farmworker wages and conditions. The CIW wanted these retailers to reverse this drive to the bottom and instead use their enormous purchasing power to elevate wages and conditions. But they couldn't do it alone. Farmworkers reached out from the bottom of the supply chain to consumers at the top of the supply chain.

The Campaign for Fair Food was born and tens of thousands of consumers carried out a four-year boycott, mass marches, hunger strikes and shareholder actions until companies signed binding agreements to pay a small premium that growers would pass to workers as a bonus in their paycheck and agree to only purchase from growers who upheld the fair food standards; suspending purchases from those who are found to have violated the code. Now today there are twelve multi-billion dollar food retailers participating in the Fair Food Program, including Yum! Brands, McDonald's, Subway, Sodexo and Compass Group. And this year, without a single sign being lifted in protest, Wal-Mart, the largest global retailer, joined the Fair Food Program because of its effectiveness. And Wal-Mart committed not only to every single provision of the Fair Food Program without exception, it also pledged to work with the Coalition to expand the program beyond Florida and out to other crops. And that expansion is happening right now.

I want to stop here and reflect with you on the significance of this, because it represents a whole-scale shift by some of the largest corporations in the world from an old model Corporate Social Responsibility that was failing not only workers but them as well, to a 21st century model of Worker-driven Social Responsibility that protects workers and corporations alike by actually rooting out human rights abuses from the supply chain.

Now when I say that CSR has failed workers and companies, let me give you a real life example. I'm going to turn the clock back to 2007, before the Fair Food Program was in operation, to when CIW and its allies were engaging a fast-food company that was reluctant to sign a Fair Food Agreement. When this fast-food company heard from the Coalition and its allies that they were sourcing tomatoes from fields in Florida where there had been cases of forced labor, they did what many companies would do who wanted to defend their brand. They hired a reputable supply chain monitoring firm to come and inspect the Florida tomato fields where they purchased their tomatoes.

And that monitoring firm conducted its inspection and, standing next to a representative from this fast-food company, the global managing director of that supply chain monitoring firm announced through the Miami Herald that his company had found "no slave labor."⁹

But even as this public statement was being released, just miles away, Mariano Lucas and two other men were telling the Collier County Police how they had been held against their will and forced to harvest in the fields of two prominent Florida growers. The men had just escaped a cargo box truck in which they had been padlocked. As law enforcement cataloged their cuts and bruises, the men explained how they had been chained and restrained to prevent them from leaving. They described

⁹ "Ripe for Conflict," Elaine Walker, The Miami Herald, 11/20/2007.

how their crewleader-captors had imposed escalating debts upon them.¹⁰ The case became *US v. Navarrete* – no thanks to the supply chain monitor who had declared the fields “slave free” and flew home – but thanks to the Coalition of Immokalee Workers who helped those men get to law enforcement and supported them throughout the judicial process until their captors were finally convicted.¹¹

Traditional Corporate Social Responsibility measures have too often failed to even identify overt problems, let alone detect the clandestine abuses of forced labor and trafficking in human beings. And that is not only horrible news for workers, it is also bad news for brands whose customers now can, with the click of a mouse, connect them to these human rights abuses. Smart companies want to know what’s going on in their supply chain so that they can get on the front side of problems together with their suppliers and correct them before they escalate. The Fair Food Program’s intensive monitoring uncovers problems early so that they can be addressed. So what we see is a shift, with some notable corporations recognizing the benefits of working in a collaborative way with workers at the base of their supply chain in the CIW’s new model of Worker-driven Social Responsibility.

The model contains three core elements for protecting workers’ rights that are commonly sought by workers in any labor-intensive industry and which have been incorporated into the Fair Food Program.¹²,

First: A worker designed code of conduct with real rights

Workers must be at the helm of design for a code to be effective. Workers in a particular industry know the specific, insidious ways their employers extract unpaid labor or create conditions of vulnerability; things outside experts just can’t see because they’re not in the workplace. Worker-design focuses on specific reforms that go beyond general principles like “obey all applicable laws” in order to undo longstanding abuses.

Second: Enforcement that is as strong as the standards themselves...

Because workers know that having rights and being able to enforce those rights are two different things. In the CIW’s WSR model, workers themselves are the front line monitors, educated in and educating one another in their rights. And they are equipped with a grievance procedure that effectively and swiftly responds to workers’ complaints and protects them from retaliation. Unlike external monitors in traditional CSR who drop into sites, the CIW’s model of WSR empowers the workers who are always present in the worksite, thus leaving those who would abuse workers with virtually nowhere to commit their crimes.

In CIW’s WSR model, workers’ own monitoring must also be buttressed by an industry-specific third-party monitor to address systemic problems that adversely impact workers but which workers themselves cannot see. For example, the Fair Food Standards Council’s intensive audits in size, scope, and depth are unprecedented. Workforce interviews cover a sample size of more than 50 percent and audits last as long as 2 weeks. Management procedures including record-keeping, payroll and personnel, are meticulously reviewed and system-wide reforms implemented to prevent problems in future.

¹⁰ “Immokalee, Florida, Family Charged with Forcing Immigrants into Farm Labor,” US Department of Justice, January 17, 2008, http://www.justice.gov/archive/opa/pr/2008/January/08_crt_034.html (accessed 10/31/14).

¹¹ “Four Defendants Sentenced for Roles in Scheme to Enslave Farmworkers in Florida, US Department of Justice,” December 19, 2008, <http://www.justice.gov/archive/opa/pr/2008/December/08-crt-1134.html> (accessed 10/31/14).

¹² For a fuller discussion of the elements of Worker-driven Social Responsibility, see “The Fair Food Program: Worker-driven Social Responsibility for the 21st Century,” Greg Asbed and Sean Sellers, published May 27, 2014 and updated August 7, 2014, “TalkPoverty.org,” <http://talkpoverty.org/2014/05/27/asbedsellers/> (accessed 10/18/14).

Third: Enforcement with teeth

Finally, in the CIW's WSR model, standards are backed up with strict market consequences that impact a supplier's financial bottom line, such as the suspension of purchasing that is a part of the Fair Food Program.

In January, Alexandra Guaqueta, the Chairwoman of the United Nations Working Group on Business and Human Rights travelled from Bogota, Colombia to Immokalee, Florida to read a statement on behalf of the UN as the CIW and Wal-Mart announced their agreement. She praised the Fair Food Program as a "ground-breaking accountability arrangement" comprised of a "smart mix of tools" and "closely aligned with the UN Guiding Principles on Business and Human Rights." And she expressed the UN's eagerness to see the Fair Food Program "serve as a model elsewhere in the world."

It has been said that while few are guilty, all are responsible.¹³ The work of freedom is ongoing and it takes all of us. With that in mind, I offer some recommendations for what we can do to prevent forced labor in the private sector.

States

Governments are bellwether purchasers. States should match their condemnation of forced labor by adopting true zero-tolerance policies by which they would suspend purchases from suppliers found to have used forced labor, regardless of fault. We've seen this work in the Fair Food Program – suppliers will step up to correct abuses when their financial bottom line is impacted.

Further, where successful programs like the Fair Food Program are developed, states should support them with government purchasing and lift them up as a model.

States should ratify the ILO Protocol of 2014 to the Forced Labour Convention, 1930, and increase collaborative approaches to addressing this crime.

States should strengthen worker protections overall including ensuring portability within guestworker programs to eliminate the total control employers have over guestworkers' income, transportation and housing; a situation ripe for forced labor.

States should foster multisector approaches among law enforcement and NGOs to identify and eliminate slavery operations. As we've seen with CIW, NGOs with relationships to or members in vulnerable workplaces are ideally positioned to identify instances of forced labor early, support and empower survivors, and assist law enforcement in investigating and prosecuting cases.

International Organizations

International organizations can strengthen baseline guidance in international protocols, such as the UN's "Protect, Respect and Remedy" framework, urging companies go beyond self-reporting to include the kinds of industry-specific monitoring by workers and intensive third party auditing that are the hallmark of CIW's Fair Food Program. They can further recommend the CIW's Worker-driven Social Responsibility model as a best practice.

Civil Society

Consumers can join worker-driven campaigns and let their support be known for worker-driven initiatives, through public action, writing, investor actions and purchasing decisions.

Corporations

Corporations should let brand protection *follow from eliminating human rights abuses*, not the reverse. And they can adopt the CIW's WSR model as an approach for working with workers at the

¹³ *The Prophets*, Abraham Joshua Heschel, (1955).

base of their supply chain to do this. Further they, like states, should suspend purchases from suppliers found to have used forced labor, regardless of fault.

The Fair Food Program has a zero tolerance clause that automatically triggers suspension of purchasing not only for forced labor but for other abuses including sexual assault. Ending Gender Based Violence creates safe workplaces for everyone and reduces the vulnerability of women in particular. Business and employers have a very important role to play in stopping gender-based violence, and must work together with labor and government to develop international standards in the form of an ILO convention.

NGOs

NGOs that have relationships on the ground in isolated parts of the world can connect worker organizations to CIW to learn more about their WSR model. Worker groups from five continents are already in conversation with CIW. If we are to be effective in addressing forced labor and other human rights abuses, these workers, the rights holders themselves, are necessary partners. Their knowledge and direction is irreplaceable.

Whenever economic forces are endeavoring to reduce people to machines, wherever forced labor is attempting to dominate their bodies and minds, people are always resisting.

Some may only be able to resist silently with their consciences, others may be talking quietly with co-workers, or giving birth to worker organizations or creating worker-designed standards for change, but wherever people are laboring, whether in Immokalee or Bangladesh, even in the most dehumanizing conditions, from their lips comes this cry of dignity and determination: "I too am human!"

May our resolve and our resources be united with theirs in common purpose, so that future generations will look back on this time as the moment when we turned the tide together for the realization of human rights for all.