



International
Labour
Organization

Combating Forced Labour

Combating Forced Labour

A Handbook for Employers & Business

Special Action Programme to Combat Forced Labour



International
Labour
Organization

Combating Forced Labour

1

Introduction & Overview

A Handbook for Employers & Business
Special Action Programme to Combat Forced Labour

Combating Forced Labour A Handbook for Employers & Business

1

Introduction & Overview

Copyright © International Labour Organization 2015
First published 2015

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Licensing), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: rights@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with a reproduction rights organization may make copies in accordance with the licences issued to them for this purpose. Visit www.ifrro.org to find the reproduction rights organization in your country.

ILO Cataloguing in Publication Data

Combating forced labour: a handbook for employers and business / International Labour Office.-- 2nd ed. - Geneva: ILO, 2015

ISBN: 9789221297994 (print); 9789221298007 (web pdf)

International Labour Office

forced labour / trafficking in persons / employers role

13.01.2

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and digital products can be obtained through major booksellers and digital distribution platforms, or ordered directly from ilo@turpin-distribution.com. For more information, visit our website: www.ilo.org/publns or contact ilopubs@ilo.org.

Acknowledgements

Special thanks are due to Philip Hunter (Verité) and, for graphic design, Julie Sobkowicz Brown for developing the revised handbook in close consultation with Houtan Homayounpour (SAP-FL), who coordinated and oversaw the project.

Printed in Switzerland

Preface

The ILO estimates that 21 million people are currently victims of forced labour. Employers are committed to the elimination of this abhorrent practice. Not only does it create unfair competition and ultimately affect the bottom line, but it represents a huge potential reputational risk, particularly when global supply chains have reached unprecedented levels of complexity. Forced labour, including human trafficking and slavery-like practices, is a violation of human rights and international labour standards, and is thus universally condemned. No employer, anywhere, wishes to be associated with this crime.

Employers are fully committed to eradicating forced labour in all its forms. They overwhelmingly supported the adoption of two important new ILO instruments in 2014, the Protocol to the Forced Labour Convention, 1930 and the Forced Labour Recommendation (Supplementary Measures), No. 203. The International Organisation of Employers (IOE) is an active participant in the Global Alliance against Forced Labour, launched by the ILO in 2005. It has joined forces with the ILO's Special Action Programme to combat Forced Labour (SAP-FL) to sensitize employers to the risks of forced labour and to promote effective mitigation measures.

This newly revised edition of the Employers' Handbook on forced labour, produced jointly by the IOE and the ILO, offers updated guidance to employers on what forced labour is, how to detect it and effective ways to combat it, thereby ensuring that business operations remain free of such practices.

The revised handbook reflects new ILO statistics and research on forced labour as well as the framework of action approved by the ILO Governing Body in 2014. It takes into account as well the UN Guiding Principles on Business and Human Rights, endorsed by the Human Rights Council in 2011.

The IOE and the ILO look forward to future close collaboration on this critical component of fundamental rights at work and invite employers' organisations across the world to join forces to eliminate forced labour.

Linda Kromjong

Secretary General
International Organisation of
Employers

Beate Andrees

Head
Special Action Programme to
Combat Forced Labour
International Labour Organization



Introduction

Forced labour and human trafficking for the purpose of forced labour are becoming increasingly important issues for employers' organisations and business. This handbook aims to help business actors at different levels address the issue, providing practical tools and guidance material to enable them to identify and prevent situations of forced labour.

Employers' organisations and business have a central role to play in combating all forms of forced or compulsory labour. Employers' organisations, in particular, are strategically well-placed to provide institutional engagement and sustainability, and business involvement is key to the success of the ILO's campaign to ensure that by 2019 forced labour will no longer persist at a scale estimated by the ILO to affect 20.9 million women, men and children worldwide.

There are many reasons why business and employers' organisations should play a central role in the global fight to end forced labour and human trafficking:

- **Legal compliance:** The vast majority of ILO member States have ratified Conventions 29 and 105 on forced or compulsory labour, and have ratified the "Palermo Protocol" against human trafficking. Consequently, they are required to make this practice a crime. This means forced labour and human trafficking are punishable as crimes in most countries around the world, and that companies found involved in such activities could face prosecution.
- **Managing risk and reputation:** To be successful, companies must manage risk in an environment where risk is not static and can emerge through the actions of the company itself, its suppliers and other actors. Allegations of forced labour and trafficking present legal risks as well as serious threats to brand and company reputation.
- **Forced labour in global supply chains:** Globalisation and the growing links across countries and firms have raised forced labour and trafficking in persons as significant issues within global supply chains.
- **Codes of conduct and corporate social responsibility (CSR):** The elimination of forced labour is a key element of codes of conduct and other CSR initiatives. Companies – particularly those that supply consumer markets and have significant brand value – face new and growing expectations that production will comply with social and human rights criteria.
- **Trade and investment risk:** In some countries, trade regulations prohibit the import of goods that have been produced by forced or trafficked labour. In these jurisdictions, such allegations can result in confiscation of imported goods by public authorities or disruption to trade and production

schedules. Allegations of forced labour and trafficking can also significantly threaten investor relations and jeopardize access to public funds such as export credits.

- **Forced labour and human trafficking are morally unacceptable.**

Aims of the handbook

This handbook is addressed to employers' organisations and a broad spectrum of business actors that include small and medium sized enterprises, multinational enterprises, export-oriented companies and those operating within global supply chains. Senior managers, human resource personnel, sourcing and social compliance staff, and social auditors are among those who will find material and information here that will help them in their day-to-day work. Organisations within the broader community of CSR as well as companies providing management services – for example, consultants or quality control companies – will also find this handbook useful.

The handbook's main aim is to assist business and employers' organisations in understanding and tackling the various dimensions and issues related to forced labour and human trafficking, acknowledging that each company and organisation is unique and has different needs and priorities. These are truly global phenomena, affecting all countries in the world today. Forced labour thus presents a significant risk to global businesses as well as their national and international representatives. The handbook has the following specific aims:

- To raise awareness of forced labour and human trafficking, what they are, and where they can be found;
- To provide practical material and guidance to different business actors and employers' organisations to encourage efforts to combat forced labour and human trafficking;
- To support employers in their engagement on the issues and propose specific measures to help them take preventive action against the risk of forced labour;
- To facilitate a better understanding of international standards addressing these issues;
- To serve as a resource book and guide for further reading.

How to use the handbook

This handbook has been designed for practical use by the business community. It takes the form of stand-alone tools and booklets that provide practical guidance to help business address forced labour. The handbook presents background information, the latest statistics on forced labour, an overview of key issues, and resources for further reading. It adopts a cross-sectoral approach and presents information drawn from different regions, countries, employers' organisations and companies of different sizes. Throughout the handbook, concrete examples of action illustrate measures that are already being taken. The following resources make up the handbook:

- **Employers' Frequently Asked Questions:** A quick reference guide for managers, human resource personnel and others that answers FAQs from employers. The guide addresses complex topics such as prison labour, forced overtime and debt bondage in an easy-to-use format.
- **Guiding Principles to Combat Forced Labour:** A set of principles based on ILO standards and jurisprudence to guide business action against forced labour and trafficking.
- **Checklist and Guidance for Assessing Compliance:** A checklist designed for social auditors and other practitioners for use in enterprise-level assessments. The tool includes a set of questions as well as policy guidance and technical advice on how to conduct assessments.
- **A Guide for Taking Action:** Presents the key measures that companies and employers' organisations can take to address forced labour at enterprise, national and industry levels, and in global supply chains.
- **Tips for Taking Action:** A set of practical reference guides that identify some of the concrete measures that companies can take to address forced labour, and their benefits.
- **Case Studies:** Selected examples of company and industry action that indicate the variety of approaches such actors can take in addressing forced labour at the workplace and in supply chains. These case studies have been prepared using publicly available resources.

Definitions and concepts

Forced Labour

The internationally recognised definition of forced labour is found in ILO Convention No. 29 (1930). According to this Convention, forced labour is “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”

The key elements of this definition are:

All work or service: This includes all types of work, service and employment, regardless of the industry, sector or occupation within which it is found, and encompasses legal and formal employment as well as illegal and informal employment.

Any person: This refers to adults as well as children, regardless of their nationality; it is considered irrelevant whether the person is a national of the country in which the forced labour case has been identified.

Menace of any penalty: This can refer to criminal sanctions as well as various forms of coercion such as threats, violence, the retention of identity documents, confinement, or non-payment of wages. The penalty may also take the form of a loss of rights or privileges.

Voluntary: This refers to workers' consent to enter into employment and to their freedom to leave the employment at any time, with reasonable notice in accordance with national law or collective agreements.

In essence, persons are in a forced labour situation if they enter work or service against their freedom of choice, and cannot leave it without penalty or the threat of penalty. This does not have to be physical punishment or constraint; it can also take other forms, such as the loss of rights or privileges.

Box 1 provides a list of examples to illustrate different aspects of this definition.

Box 1: Identifying forced labour in practice

Lack of consent to work (the “route into” forced labour)

- Birth/descent into “slave” or bonded status
- Physical abduction or kidnapping
- Sale of a person into the ownership of another
- Physical confinement in the work location – in prison or in private detention
- Psychological compulsion, i.e. an order to work, backed up by a credible threat of a penalty for non-compliance
- Induced indebtedness (by falsification of accounts, inflated prices, reduced value of goods or services produced, excessive interest charges, etc.)
- Deception or false promises about types and terms of work
- Withholding and non-payment of wages
- Retention of identity documents or other valuable personal possessions

Menace of a penalty (the means of keeping someone in forced labour)

- Physical violence against worker or family or close associates
- Sexual violence
- (Threat of) supernatural retaliation
- Imprisonment or other physical confinement
- Financial penalties
- Denunciation to authorities (police, immigration, etc.) and deportation
- Exclusion from future employment
- Exclusion from community and social life
- Removal of rights or privileges
- Deprivation of food, shelter or other necessities
- Shift to even worse working conditions
- Loss of social status

Trafficking in Persons

Trafficking in persons, or human trafficking, can lead to forced labour. It involves the movement of a person, often across international borders, for the purpose of exploitation. In recent years, human trafficking has taken on new forms and dimensions, linked to developments in information technology, transportation and transnational organised crime. It affects developing countries, countries in transition and industrialised market economy countries alike.

A basic definition of human trafficking is found in the “Palermo Protocol” of 2000 (see [Annex 1](#)). This definition distinguishes trafficking from smuggling by

focusing on the elements of exploitation, deception and coercion.¹ According to the Protocol:

Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

This definition is complex, but it emphasises the following key points:

Activities: These include each phase of the trafficking cycle, namely recruitment, transportation, transfer, harbouring or receipt of a person;

Means: This can include the threat or use of force, deception, abduction, coercion, fraud, threats, and abuse of power or of a position of vulnerability; and

Purpose: This is exploitation, including forced labour, slavery and servitude.

The Palermo Protocol distinguishes between trafficking in children (under 18 years of age) and adults. In this case, the recruitment and movement of a child for exploitation is considered “trafficking in persons” even if it does not involve the illicit means identified in the definition.

It should also be noted that in Article 1 of the ILO Protocol of 2014 to the Forced Labour Convention, the definition of forced or compulsory labour contained in ILO Convention 29 is reaffirmed and measures referred to in the Protocol include specific action against trafficking in persons for the purposes of forced or compulsory labour – making a clear link between forced labour and human trafficking.

Corporate Social Responsibility

ILO defines CSR as “a way in which enterprises give consideration to the impact of their operations on society and affirm their principles and values both

¹The definition of smuggling is provided in the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organised Crime. It states: “Smuggling of migrants” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.”

in their own internal methods and processes and in their interaction with other actors. CSR is a voluntary, enterprise-driven initiative and refers to activities that are considered to exceed compliance with the law.”

The key elements of the ILO definition are:

Voluntary: Enterprises voluntarily adopt socially responsible conduct by going beyond their legal obligations;

Integrated: CSR is an integral part of company management; it is thus distinguished from philanthropy; and

Systematic: Socially responsible action is systematic, not occasional.

Companies are encouraged to develop and implement the best CSR approaches for their individual situations, but this cannot be a substitute for the role of legislation.

The point of reference for the ILO on CSR is the *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy*.² The MNE Declaration is the only international instrument addressed to enterprises which has been agreed to by governments, employers’ and workers’ organisations. The ILO *Declaration on Fundamental Principles and Rights at Work* is also a key promotional instrument. It commits Member States of the ILO to respect and promote four core labour principles, including the elimination of forced labour, whether or not they have ratified the relevant Conventions.³ The principles and rights identified in this Declaration also comprise the labour principles of the UN Global Compact. Since the Compact’s launch in 1999, ILO has actively collaborated with the Global Compact Office and its UN member agencies.

Reinforcing these initiatives, the UN *Guiding Principles on Business and Human Rights* were adopted in 2011. Guiding Principle number 12 states that “the responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the ILO’s Declaration on Fundamental Principles and Rights at Work.” This encompasses ILO Conventions 29 and 105 as part of the eight ILO core Conventions and are the basis of the fundamental principle of elimination of all forms of forced or compulsory labour. Furthermore, as the 2014 Protocol to the Forced Labour Convention supplements Convention 29, the “business responsibility to respect” is also automatically linked to the Protocol.

² See: www.ilo.org/multi.

³ See: www.ilo.org/declaration. In addition to the elimination of all forms of forced or compulsory labour, the Declaration also addresses freedom of association and the effective recognition of the right to collective bargaining; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

Further information about the definitions of forced labour and trafficking in persons can be found in [Booklet 2](#) of this handbook, the [Employers' Frequently Asked Questions](#). See also the [Annex](#) provided below, which includes excerpts from the relevant international instruments.

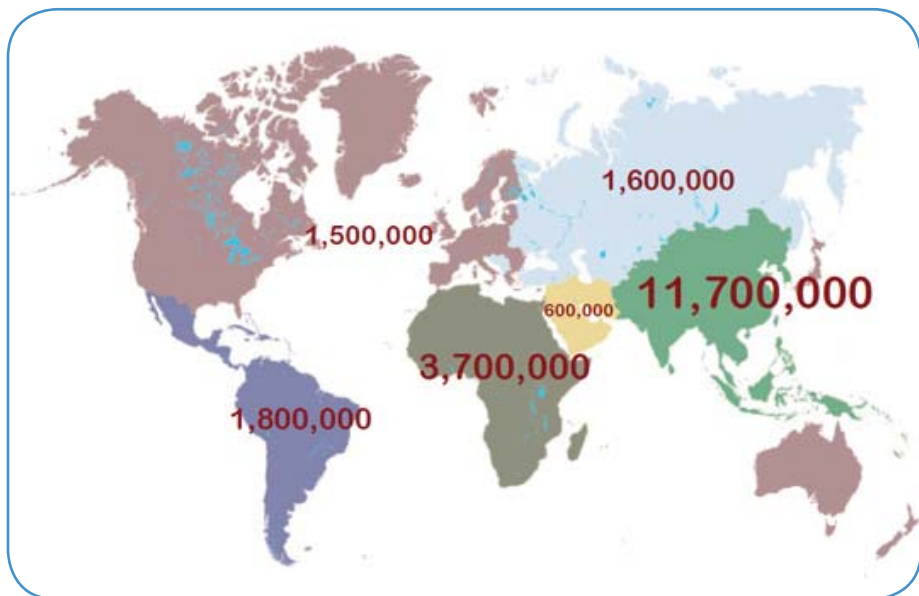


Forced labour and the global economy

Facts and figures

According to ILO data, 20.9 million people are victims of forced labour worldwide, trapped in jobs into which they were coerced or deceived and which they cannot leave. Of these, 18.7 million (or 90%) are exploited in the private economy by individuals or enterprises. Women and girls are particularly vulnerable to abuse, representing 11.4 million victims, but men and boys are likewise affected, with 9.5 million.

Forced labour exists in industrialised as well as in developing countries. It is a global problem that affects all countries to a greater or lesser extent. The map below shows the regional distribution of forced labour and reveals that it is a truly global phenomenon.



It is estimated that the total illicit profits generated by the use of forced labour in the private economy worldwide amount to US\$150 billion per year. A majority of these profits are generated in Asia, followed closely by the developed economies. An estimated US\$99 billion of this amount is generated by forced sexual exploitation, while the remaining US\$51 billion derives from forced

labour exploitation, including in domestic work, agriculture and other economic activities.⁴

Some of the most common forms of forced labour include:

Debt-induced forced labour: Commonly referred to as “bonded labour” in South Asia, where the practice is most common, but also widely known as “debt bondage”. This involves the taking of a loan or wage advance by a worker from an employer or labour recruiter, in return for which the worker pledges his or her labour and sometimes that of family members in order to repay the loan. The terms of the loan or work, however, may be such that the worker is trapped for years without being able to pay back the loan.⁵

Forced labour in prisons: Labour exacted from prison workers is not generally considered forced labour under international law. However, involuntary work performed by prisoners who have not been convicted in a court of law and whose work is not supervised by a public authority is considered forced labour. Similarly, involuntary work performed by a prisoner for the benefit of a private undertaking is also considered forced labour.

Human trafficking for the purpose of forced labour: Trafficking in persons has become a truly global enterprise. It is often linked to organised crime and involves deceptive recruitment, racketeering and blackmailing to obtain a cut of migrant workers’ earnings.

Coercion in employment: This refers to the many forms of deception and coercion in employment that can amount to forced labour under specific circumstances. Withholding or non-payment of wages, the retention of identity documents, and induced indebtedness are some examples of such coercion.

Forced labour linked to exploitative labour contract systems: This can be found almost everywhere in the world today. For example, migrant workers can find themselves “bonded” to a labour contractor because excessive fees have been charged and with limited if any possibilities to change the employer once they arrive in the destination country.

Economic sectors at risk

Reliable statistical information about the economic sectors where forced labour

⁴These figures are taken from: ILO, *Profits and poverty: The economics of forced labour*, 2014.

⁵Debt bondage is defined in the UN’s *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery* as “the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined”.

is found remains difficult to establish. However, ILO estimates that, globally, only 10% of all forced labour is exacted by the State or armed forces. This means that the overwhelming majority of forced labour is exacted by private agents. Of this majority, 22% is exacted for forced sexual exploitation, while 68% is exacted for the purpose of forced labour exploitation.

The following presents a list of economic sectors in which cases of forced labour and human trafficking are frequently reported:

- Agriculture, forestry, and fishing;
- Construction, manufacturing and utilities;
- Mining and logging;
- Domestic service and other care and cleaning work;
- Sex industry and prostitution;
- Garments and textiles under sweatshop conditions;
- Hospitality and catering; and
- Transportation.

Forced labour that results from human trafficking largely affects persons working at the margins of the formal economy, with irregular employment or migration status. However, it is increasingly evident that coercive recruitment and employment practices can affect migrant workers in other mainstream economic sectors as well, for example in health care, food processing, and contract cleaning, both in private and public sector employment.

Vulnerable workers

Forced labour is a global phenomenon that affects every country, region and economic sector, and workers in both formal and informal employment relationships. However, there are certain categories of workers that are more vulnerable to coercion than others. For example ILO data conclude that 55% of all victims of forced labour are women and girls, and are affected particularly by forced sexual exploitation. Some are at risk because of their ethnic background, relative poverty or irregular migrant status. Employers should give special attention when employing them directly or when they are working in subcontracted firms within the supply chain:

- Workers who are part of a group that has suffered a long-standing pattern of discrimination, such as indigenous and tribal peoples in Latin America, low castes in south Asia and, in particular, women within these groups;
- Migrant workers, particularly those with an irregular status, whose vulnerability can be exploited through coercion;

- Workers employed in informal enterprises, including home-based workers and those in geographically remote rural regions, operating at the margins of the formal economy; and
- Young people and unskilled or illiterate workers who may be less aware of their legal rights than their older, more skilled and better educated counterparts.

Further resources

International Conventions, Recommendations and Declarations

General

- ILO Declaration on Fundamental Principles and Rights at Work, 1998.
- ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, 2006.
- ILO Declaration on Social Justice for a Fair Globalisation, 2008.

Forced Labour

- Forced Labour Convention, 1930 (No. 29)
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Protocol to the Forced Labour Convention, 2014 (No. 29)
- Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203)

Forced Labour and Trafficking in Children

- Worst Forms of Child Labour Convention, 1999 (No. 182)

Migrant Workers

- Migration for Employment Convention (revised), 1949 (No. 97)
- The Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

Domestic Workers

- Domestic Workers Convention, 2011 (No. 189)
- Domestic Workers Recommendation, 2011 (No. 201)

Recruitment and Employment Relationship

- Private Employment Agencies Convention, 1997 (No. 181)
- Private Employment Agencies Recommendation, 1997 (No. 188)
- Employment Relationship Recommendation, 2006 (No. 198)

Human Rights

- Universal Declaration of Human Rights, 1948
- International Covenant on Civil and Political Rights, 1966
- International Covenant on Economic, Social and Cultural Rights, 1966
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990

Abolition of Slavery

- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1957

Crime

- Convention against Transnational Organised Crime, 2000

Trafficking in Persons

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000

Reports and surveys

- ILO: *Profits and poverty: The economics of forced labour*, Geneva, 2014.
- ILO: *Global estimate of forced labour*, Geneva, 2012.
- ILO: *Cost of coercion*, Geneva, 2009.
- ILO: *A global alliance against forced labour*, Geneva, 2005.
- ILO: *Eradication of forced labour: General survey concerning the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105)*, Geneva, 2007.
- ILO: *Action against trafficking in human beings*, Geneva, 2008.
- ILO, *Trafficking for forced labour: How to monitor the recruitment of migrant workers*, Geneva, 2006.
- ILO: *An information guide: Preventing discrimination, exploitation and abuse of women migrant workers*, Geneva, 2003.

IOE policy statements and fact sheets

- IOE, *The informal economy: An employer's approach*, Geneva, 2006.
- IOE, *The role of business within society*, Geneva, 2005.
- IOE, *Corporate social responsibility: An IOE approach*, Geneva, 2003.

- IOE, *Factsheet for business: Corporate Social Responsibility*, Geneva, 2013.
- IOE, *Codes of conduct: Position paper of the IOE*, Geneva, 1999.
- IOE, *UN Guiding Principles on Business and Human Rights: Employer's guide*, Geneva, 2012.
- IOE, *Factsheet for business: Business and human rights*, Geneva, 2012
- IOE, *Fact Sheet for Business: Human Trafficking*, Geneva, 2012.
- IOE, *Factsheet for business: Forced labour in the fisheries sector*, Geneva, 2013.
- IOE-ILO, *Guidance note on the 2014 Protocol to the Forced Labour Convention, 1930*, Geneva, 2014.

Other relevant resources

- Anti-Slavery International, *Arrested Development: Discrimination and slavery in the 21st century*, London, 2008.
- Anti-Slavery International, *Debt Bondage*, London, 1998.
- US State Department, *Trafficking in Persons Report*, 2014.
- UN Guiding Principles on Business and Human Rights, 2011.



Annex 1: International Legal Instruments

A – ILO Forced Labour Convention No. 29 (1930) – excerpts

Article 1

1. Each Member of the International Labour Organization which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.

Article 2

1. For the purposes of this Convention the term **forced or compulsory labour** shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.
2. Nevertheless, for the purposes of this Convention, the term **forced or compulsory labour** shall not include—
 - (a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
 - (b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
 - (c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;
 - (d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;
 - (e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

Article 25

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

B – ILO Abolition of Forced Labour Convention No. 105 (1957) – excerpts

Article 1

Each Member of the International Labour Organization which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour–

- (a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
- (b) as a method of mobilising and using labour for purposes of economic development;
- (c) as a means of labour discipline;
- (d) as a punishment for having participated in strikes;
- (e) as a means of racial, social, national or religious discrimination.

Article 2

Each Member of the International Labour Organization which ratifies this Convention undertakes to take effective measures to secure the immediate and complete abolition of forced or compulsory labour as specified in Article 1 of this Convention.

C – ILO Protocol of 2014 to the Forced Labour Convention, 1930 No. 29 (2014) – excerpts

Article 1

1. In giving effect to its obligations under the Convention to suppress forced or compulsory labour, each Member shall take effective measures to prevent and eliminate its use, to provide to victims protection and access to appropriate and effective remedies, such as compensation, and to

sanction the perpetrators of forced and compulsory labour.

2. Each Member shall develop a national policy and plan of action for the effective and sustained suppression of forced or compulsory labour in consultation with employers' and workers' organisations, which shall involve systematic action by the competent authorities and, as appropriate, in coordination with employers' and workers' organisations, as well as with other groups concerned.

Article 2

The measures to be taken for the prevention of forced or compulsory labour shall include:

- (a) educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour;
- (b) educating and informing employers, in order to prevent their becoming involved in forced or compulsory labour practices;
- (d) protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process;
- (e) supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour; and
- (f) addressing the root causes and factors that heighten the risks of forced or compulsory labour.

Article 4

1. Each Member shall ensure that all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory, have access to appropriate and effective remedies, such as compensation.

D – ILO Private Employment Agencies Convention No. 181 (1997) – excerpts

Article 1

1. For the purpose of this Convention the term **private employment agency** means any natural or legal person, independent of the public authorities, which provides one or more of the following labour market services:
 - (a) services for matching offers of and applications for employment, without

the private employment agency becoming a party to the employment relationships which may arise therefrom;

- (b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to below as a “user enterprise”) which assigns their tasks and supervises the execution of these tasks;
 - (c) other services relating to jobseeking, determined by the competent authority after consulting the most representative employers and workers organizations, such as the provision of information, that do not set out to match specific offers of and applications for employment.
2. For the purpose of this Convention, the term **workers** includes jobseekers.

Article 2

1. This Convention applies to all private employment agencies.
2. This Convention applies to all categories of workers and all branches of economic activity. It does not apply to the recruitment and placement of seafarers.

Article 3

1. The legal status of private employment agencies shall be determined in accordance with national law and practice, and after consulting the most representative organizations of employers and workers.
2. A Member shall determine the conditions governing the operation of private employment agencies in accordance with a system of licensing or certification, except where they are otherwise regulated or determined by appropriate national law and practice.

Article 4

Measures shall be taken to ensure that the workers recruited by private employment agencies providing the services referred to in Article 1 are not denied the right to freedom of association and the right to bargain collectively.

Article 5

1. In order to promote equality of opportunity and treatment in access to employment and to particular occupations, a Member shall ensure that private employment agencies treat workers without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction,

social origin, or any other form of discrimination covered by national law and practice, such as age or disability.

Article 7

1. Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers.
2. In the interest of the workers concerned, and after consulting the most representative organizations of employers and workers, the competent authority may authorize exceptions to the provisions of paragraph 1 above in respect of certain categories of workers, as well as specified types of services provided by private employment agencies.

Article 8

1. A Member shall, after consulting the most representative organizations of employers and workers, adopt all necessary and appropriate measures, both within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations which provide for penalties, including prohibition of those private employment agencies which engage in fraudulent practices and abuses.
2. Where workers are recruited in one country for work in another, the Members concerned shall consider concluding bilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment.

Article 9

A Member shall take measures to ensure that child labour is not used or supplied by private employment agencies.

Article 10

The competent authority shall ensure that adequate machinery and procedures, involving as appropriate the most representative employers and workers organizations, exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies.

Article 11

A Member shall, in accordance with national law and practice, take the

necessary measures to ensure adequate protection for the workers employed by private employment agencies as described in Article 1, paragraph 1(b) above, in relation to:

- (a) freedom of association;
- (b) collective bargaining;
- (c) minimum wages;
- (d) working time and other working conditions;
- (e) statutory social security benefits;
- (f) access to training;
- (g) occupational safety and health;
- (h) compensation in case of occupational accidents or diseases;
- (i) compensation in case of insolvency and protection of workers claims;
- (j) maternity protection and benefits, and parental protection and benefits.

E – Protocol to Prevent, Suppress and Punish the Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime – excerpts

Article 2: Statement of purpose

The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among States Parties in order to meet those objectives.

Article 3: Use of terms

For the purposes of this Protocol:

- (a) “Trafficking in persons” shall mean the recruitment, transportation,

transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) “Child” shall mean any person under eighteen years of age.

Article 6: Assistance to and protection of victims of trafficking in persons

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.
2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:
 - (a) Information on relevant court and administrative proceedings;
 - (b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.
3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:
 - (a) Appropriate housing;
 - (b) Counselling and information, in particular as regards their legal rights, in

- a language that the victims of trafficking in persons can understand;
- (c) Medical, psychological and material assistance; and
 - (d) Employment, educational and training opportunities.
4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.
 5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.
 6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 9: Prevention of trafficking in persons

1. States Parties shall establish comprehensive policies, programmes and other measures:
 - (a) To prevent and combat trafficking in persons; and
 - (b) To protect victims of trafficking in persons, especially women and children, from revictimization.
2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.
3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.
4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.
5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

- 1 **Introduction & Overview**
- 2 **Employers' Frequently Asked Questions**
- 3 **Guiding Principles to Combat Forced Labour**
- 4 **A Checklist & Guidance for Assessing Compliance**
- 5 **A Guide for Taking Action**
- 6 **Tips for Taking Action**
- 7 **Case Studies**

Special Action Programme to Combat Forced Labour

Fundamental Principles and Rights at Work Branch

International Labour Office
Route des Morillons 4
CH-1211 Geneva 22
forcedlabour@ilo.org
www.ilo.org/forcedlabour

ISBN 9789221297994



9 789221 297994



International
Labour
Organization

Combating Forced Labour

2

Employers' Frequently Asked Questions

A Handbook for Employers & Business
Special Action Programme to Combat Forced Labour

Combating Forced Labour
A Handbook for Employers & Business

2

Employers' Frequently Asked Questions

Copyright © International Labour Organization 2015
First published 2015

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Licensing), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: rights@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with a reproduction rights organization may make copies in accordance with the licences issued to them for this purpose. Visit www.ifrro.org to find the reproduction rights organization in your country.

ILO Cataloguing in Publication Data

Combating forced labour: a handbook for employers and business / International Labour Office.-- 2nd ed. - Geneva: ILO, 2015

ISBN: 9789221297994 (print); 9789221298007 (web pdf)

International Labour Office

forced labour / trafficking in persons / employers role

13.01.2

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and digital products can be obtained through major booksellers and digital distribution platforms, or ordered directly from ilo@turpin-distribution.com. For more information, visit our website: www.ilo.org/publns or contact ilopubs@ilo.org.

Acknowledgements

Special thanks are due to Philip Hunter (Verité) and, for graphic design, Julie Sobkowicz Brown for developing the revised handbook in close consultation with Houtan Homayounpour (SAP-FL), who coordinated and oversaw the project.

Printed in Switzerland

Introduction

This booklet presents information on forced labour and human trafficking in the form of Frequently Asked Questions by employers and business. It covers a broad range of topics, including the forms of forced labour; the most recent global statistics on forced labour; the role of employers' organisations and business in addressing these issues; relevant international standards such as ILO Conventions, Protocols and Recommendations and the UN "Palermo Protocol" on trafficking in persons; prison labour; and debt bondage and other forms of coercion in employment. For more information, consult the list of resources and websites provided at the end of the booklet or review **Booklet 1: Introduction & Overview** for general information about forced labour, and **Booklet 5: A Guide for Taking Action** for details on the actions employers and business can take. Please note that some of the information presented in this booklet can also be found in other parts of the handbook.



Combating Forced Labour: The Role of Employers and Business¹

1 How can the problem of forced labour be solved?

Eliminating forced labour calls for action on many fronts. It requires gaining a clearer understanding of how forced labour operates in different contexts, of who is affected and how. It requires countries to adopt and implement strong laws and policies that outlaw the different forms of forced labour, protect the victims and allow appropriate punishment of the perpetrators. A range of practical actions is needed, adapted to the country context and types of forced labour problems, including raising public awareness of the risks of forced labour, providing alternative local income opportunities and skills to prospective irregular migrants, rigorous law enforcement, monitoring and regulating the activities of recruitment agencies, labour contractors and employers, and rehabilitating and reintegrating rescued forced labour victims. In the long term, forced labour prevention rests on targeted poverty-reduction initiatives such as creating income-earning activities and micro-insurance programmes.

2 What role can employers and business play in combating forced labour and trafficking?

Employers and business have a key role to play in the fight against forced labour and trafficking. And significant steps have in fact already been taken by business leaders to address the issue. However, the role of business cannot be seen in isolation from the role of other important actors, namely governments and the social partners. With this in mind and with the aim of helping to guide business action, ILO has developed *10 Principles for Business Leaders to Combat Forced Labour and Trafficking*. These principles outline some of the steps that companies and employers can take to engage on the issue:

- Have a clear and transparent company policy, setting out the measures taken to prevent forced labour and trafficking. Clarify that the policy applies to all enterprises involved in a company's product and supply chains;
- Train human resource, compliance officers, and auditors in means to identify forced labour in practice, and seek appropriate remedies;
- Provide regular information to shareholders and potential investors, attracting them to products and services where there is a clear and sustainable commitment to ethical business practice including prevention of forced labour;

¹ For further information about the many things employers and business can do to combat forced labour, please see **Booklet 5: A Guide for Taking Action** and **Booklet 6: Tips for Taking Action**.

- Promote agreements and codes of conduct by industrial sector (as in agriculture, construction and textiles), identifying the areas where there is risk of forced labour, and take appropriate remedial measures;
- Treat migrant workers fairly. Monitor carefully the agencies that provide contract labour, especially across borders, blacklisting those known to have used abusive practices and forced labour;
- Ensure that all workers have written contracts, in language that they can easily understand, specifying their rights with regard to payment of wages, overtime, retention of identity documents, and other issues related to preventing forced labour;
- Encourage national and international events among business actors, identifying potential problem areas and sharing good practice;
- Contribute to programmes and projects to assist, through vocational training and other appropriate measures, the victims of forced labour and trafficking;
- Build bridges between governments, workers, law enforcement agencies and labour inspectorates, promoting cooperation in action against forced labour and trafficking;
- Find innovative means to reward good practice, in conjunction with the media.

3 How can companies identify forced labour in their operations or supply chains?

Some signs to be aware of include:

- Indebted workers. Workers who are or may become indebted can become coerced into working for a particular employer to repay the debt;
- Prison labour. Use of prison labour is not forced labour, *per se*. However, prison workers should be hired to companies only on a voluntary basis, and conditions with regard to wages, benefits and occupational safety and health should be comparable to conditions for free workers;
- Operating in a country where the authorities force the population to work for development purposes, for instance to assist in construction, agriculture, and other public works;
- Exploitative practices such as forced overtime or the lodging of deposits (financial or personal documents) for employment;
- Migrant workers are particularly vulnerable to forced labour;
- Workers working without a contract, who are more likely to not know their

rights, including their right to leave their employment; and

- Practical checklists to identify potential situations of forced labour can be a useful tool for employers and businesses.

4 What can companies and employers do to avoid the risk of trafficking for forced labour?

The flexibility and speed with which today's labour market operates can put employers at risk if they rely on third parties to do recruiting. If companies have migrants in their workforce, and particularly if a third party is used to recruit them, they should know who these workers are and where they come from, and ensure that their recruitment into the workplace was completely above board and without deception or coercion. Developing a company policy to act as a guideline on recruiting migrant workers and engaging only reputable recruitment and employment agencies is also important.



Forms of Forced Labour

1 What is forced labour?

Forced or compulsory labour is all work or service which is exacted from any person under the menace of a penalty and which the person has not entered into of his or her own free will. It occurs where work is forced by the State or by private enterprises or individuals who have the will and power to impose on workers severe deprivations, such as physical violence or sexual abuse. Forced labour can include practices such as restricting people's movement or imprisoning them; withholding wages or identity documents to force them to stay on the job; or entangling them in fraudulent debt from which they cannot escape. Forced labour is a criminal offence and a violation of fundamental human rights.

The key elements of the definition of forced or compulsory labour found in ILO Convention 29 include:

- 1. Threat of penalty.** The penalty may consist in a penal sanction or in the suppression of rights or privileges. Threats of retaliation may be realised in different forms, from the most blatant, which include the use of violence, physical obligations or even death threats, to the more subtle, often psychological, such as the threat to denounce an irregular migrant worker to the authorities.
- 2. Work or service undertaken involuntarily.** The principle that all work relations should be founded on the mutual consent of the contracting parties implies that both may leave the work relation at any moment, giving reasonable notice in accordance with national law or collective agreement. If the worker cannot revoke his or her consent, without fear of suffering a penalty, such a situation may be considered forced labour. The absence of a voluntary offer can be linked to external and indirect pressures, for example the withholding of a part of a worker's salary or the seizure of a worker's identity documents.
- 3. All work or service.** This includes all types of work, service and employment, regardless of the industry, sector or occupation within which it is found, and encompasses legal and formal employment as well as illegal and informal employment.
- 4. Any person.** This refers to adults as well as children, regardless of their nationality, and it is considered irrelevant whether the person is a national of the country in which the forced labour case has been identified.

2 What constitutes the “menace of any penalty” referred to in Convention 29?

Convention No. 29 (1930) defines forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” In this definition, the “menace of any penalty” refers not only to penal sanction but also to the loss of rights or privileges. In practical terms, this may take many physical and/or psychological forms, for example:

- Abuse of vulnerability
- Deception
- Restriction of movement
- Isolation
- Physical and sexual violence
- Intimidation and threats
- Retention of identity documents
- Withholding of wages
- Debt bondage
- Abusive working and living conditions
- Excessive overtime

3 How many people are trapped in forced labour?

The ILO estimates that 20.9 million people are victims of forced labour worldwide. Of these, 18.7 million (or 90%) are exploited in the private economy by individuals and enterprises. The remaining 2.2 million are in state-imposed forms of forced labour, for example in prison under conditions which contravene ILO standards on the subject, or in work imposed by the state military or by rebel armed forces. The estimates also indicate that 55% of all victims of forced labour are women and girls. Adults are more affected than children; 74% (or 15.4 million) of victims fall in the age group of 18 years and above, whereas children aged 17 years and below represent 26% (or 5.5 million) of all forced labour victims.

The highest absolute number of forced labourers is found in the Asia and Pacific region (56% of the total), followed by Africa (18%) and Latin America and the Caribbean (9%). The Developed Economies and European Union account for 7% of forced labourers, whilst the countries of Central, Southeast and Eastern Europe (non-EU) and the Commonwealth of Independent States also have 7%.



4 What are the different forms that forced labour takes?²

Forced labour can take many forms – some imposed by the State, but the majority in the private economy. Forced labour can be an outcome of trafficking in persons and irregular migration, a problem which seems to be on the increase and which affects all regions of the world. Mechanisms of force applied include debt bondage, slavery, misuse of customary practices and deceptive recruitment systems. Some of the most common forms of forced labour include:

Debt-induced forced labour: Commonly referred to as “bonded labour” in south Asia, where the practice is most common, but also widely known as “debt bondage”. It can be found in many economic sectors, including agriculture, brick making, mining and others, and is frequently linked to long-standing patterns of discrimination. Victims are often the poorest people in society and, in some parts of the world, it is indigenous and tribal peoples who are most affected. Debt bondage arises when a person mortgages his or her services or those of his family members to someone providing credit in order to repay the loan or advance.

Forced labour in prisons: Prison labour is not normally considered forced labour under international law. However, involuntary work performed by prisoners who have not been convicted in court and whose work is not

² For more on the different forms that forced labour can take, see [Booklet 1: Introduction and Overview](#).

supervised by a public authority is considered forced labour. Similarly, involuntary work performed by a prisoner for the benefit of a private undertaking is also considered forced labour.

Forced labour as an outcome of human trafficking: Trafficking in persons, or human trafficking, is often linked to forced labour. It is fuelled by organised criminal networks or individuals and can involve deceptive recruitment, racketeering and blackmailing for the purpose of labour exploitation.

Forced labour linked to exploitative labour contract systems: This can be found almost everywhere in the world today. For example, migrant workers can find themselves “bonded” to a labour contractor because excessive fees have been charged and with limited if any possibilities to change the employer once they arrive in the destination country.

5 Are there any workers who are considered most “at risk” of forced labour?

Forced labour is a global phenomenon that affects every region, country and economic sector, and workers in both formal and informal employment relationships. However, there are certain categories of workers that are more vulnerable to coercion than others. Some are particularly at risk because of their ethnic background, relative poverty or irregular migrant status:

- Workers who are part of a group that has suffered a long-standing pattern of discrimination, such as indigenous and tribal peoples in Latin America, low castes in south Asia and, in particular, women within these groups;
- Migrant workers, particularly those with an irregular status, whose vulnerability can be exploited through coercion;
- Workers employed in informal enterprises, including home-based workers and those in geographically remote rural regions, operating at the margins of the formal economy; and
- Young people and unskilled or illiterate workers who may be less aware of their legal rights than their older, more skilled and better educated counterparts.

Furthermore, workers of both sexes can be forced to work in a range of sectors, as well as in forced commercial sexual exploitation (affecting almost exclusively women and girls).

6 What are the causes of forced labour?

Forced labour is for the most part rooted in poverty, inequality and discrimination, and most often driven by the pursuit of financial profit at the expense of vulnerable and unprotected workers. Inadequate legislation and poor law enforcement mean that the perpetrators are rarely prosecuted and punished. In this situation, the potential gains for a minority of unscrupulous employers, agents and traffickers who resort to forced labour practices outweigh the perceived risks. ILO estimates that the annual profits generated from forced labourers amount to \$150 billion. A majority of these profits are generated in Asia, followed closely by the developed economies and the European Union. Forced labour has also been motivated by political factors.

7 Isn't forced labour something more commonly associated with repressive States rather than with the private sector?

Forced labour imposed directly by the State remains a cause for serious concern. However, according to ILO estimates, the majority of victims of forced labour are exploited by private agents. Forced or compulsory labour is a global phenomenon, present in all regions, in developing and developed economies alike, in the formal and informal economies, in the global supply chains of multinational enterprises, in small and medium sized enterprises, and in sectors as diverse as agriculture, manufacturing and services. While traditional slavery and state-sponsored forced labour are in decline globally, other forms of forced labour in the private sector are estimated to be on the increase.



International Standards to Combat Forced Labour³

1 What international instruments exist for the elimination of forced labour?

The ILO has adopted two Conventions and a Protocol (instruments that are legally binding on ILO member States that ratify them) as well as a Recommendation on forced labour. The Forced Labour Convention, 1930 (No. 29) calls for the elimination of all forms of forced or compulsory labour. This was supplemented in 1957 by the Abolition of Forced Labour Convention, (No. 105). Adopted at a time when there had been growing use of forced labour for political purposes, Convention 105 calls for the suppression of forced labour as a means of:

- Political coercion or education, or punishment for the expression of political views;
- Workforce mobilisation for purposes of economic development;
- Labour discipline;
- Punishment for participation in strikes, and;
- Racial, social, national or religious discrimination.

A Protocol to the Forced Labour Convention, 1930, was adopted in 2014. It requires States to take special measures of prevention, protection and remedy to suppress forced labour. The Protocol was also accompanied by the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), which provides non-binding guidance in the areas of prevention, victim protection, access to justice, enforcement and international cooperation.

The Forced Labour Conventions are among the most widely ratified of the ILO and they are considered “fundamental” ILO Conventions. This means that freedom from forced labour, along with freedom of association and the right to collective bargaining, and the elimination of child labour and of discrimination at work, is indispensable to the achievement of decent work. Furthermore, the ILO *Declaration on Fundamental Principles and Rights at Work*, adopted in 1998, commits all member States to respect and promote the abolition of forced labour, even if they have not yet ratified the forced labour Conventions.

³ For more information, see the Annex to [Booklet 1: Introduction & Overview](#) for excerpts of the relevant international standards concerning forced labour and trafficking in persons.

2 Are there any exceptions to the definition of forced labour found in ILO Conventions?

Convention No. 29 broadly defines forced labour as all work or service that is undertaken involuntarily and under the threat of a penalty. However, the Convention also identifies the following forms of compulsory labour that do not fall within the scope of this definition:

- Any work or service of a purely military character that is required by compulsory military service laws;
- Any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country, for example compulsory jury service or the duty to assist a person in danger;
- Any work or service exacted from a person as a consequence of a conviction in a court of law, provided that this work or service is carried out under the supervision and control of a public authority and that the person is not hired to or placed at the disposal of private individuals, companies or associations;
- Any work or service exacted in cases of emergency, for example in the event of war or a calamity such as a flood, earthquake, famine or any circumstance that would endanger the lives and well-being of the population, in whole or in part;
- Minor communal services performed by members of the community in the direct interest of that community, for example maintenance works, works connected with sanitation, or the maintenance of village paths, tracks or watering places.

3 How does international law address human trafficking?

Growing awareness of trafficking in persons has been reflected in the elaboration of new international and regional anti-trafficking instruments, for example the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons* (2000), or “the Palermo Protocol”, and the *Council of Europe Convention on Action against Trafficking in Human Beings* (2005). These new instruments convey a growing consensus that trafficking in persons can include, result in or be undertaken for the purpose of forced labour, slavery and servitude. The adoption and ratification of these instruments has contributed to rapid changes in legislation and practice in many countries, and led to the adoption of new policies in this field.

Prison Labour

1 Is prison labour prohibited as a form of forced labour?

ILO Forced Labour Conventions (C29 and C105) do not prohibit the use of prison labour, but they do place clear restrictions on its use. Prison labour can only be imposed on a criminal convicted in a court of law. Detainees awaiting trial cannot be forced to work, nor can people who have been imprisoned as a result of a non-judicial decision. The work performed by prisoners must be done under the supervision of a public authority, and prisoners cannot be forced to work for private enterprises inside or outside the prison.

2 Under what conditions is prison labour allowed?

According to ILO Conventions, work or service exacted from a person as a consequence of a conviction in court and carried out under supervision of a public authority is **not** considered forced labour. However, the following conditions must be met to ensure that such prison labour is not considered forced:

- The person has been found guilty of an offence, and the verdict has been pronounced by an independent court of law following due process. People who are in detention but have not been convicted, such as those awaiting trial or detained without trial, should not be obliged to perform labour; however, this does not prevent work from being made available to such persons at their own request, to be performed on a voluntary basis.
- The work is supervised and controlled by a public authority. In State prisons, this authority is represented by the prison administration.
- The prisoner shall not be hired to or placed at the disposal of private individuals, companies or associations.

As for the private sector, compulsory prison labour put at the disposal of private individuals or companies is against international standards. However, private companies or individuals can employ prisoners when safeguards exist to ensure the truly voluntary nature of such work, and the prisoner has given his or her formal consent.

Some examples of how prison labour may be associated with the private sector include:

- Prisoners may work with a private entity as part of an educational or training scheme;

- Prisoners may work in workshops within the prison to produce goods sold to private entities in the open market;
- Prisoners may work outside the prison for a private entity as part of a pre-release scheme;
- Prisoners may provide labour within prisons, contributing to the running of correctional facilities managed by private entities; and
- Prisoners may work with private firms outside the prison during the day, returning at night.

3 What does it mean to ensure that prison work is performed under conditions that approximate a “free labour relationship”?

If a business makes use of prison labour, it is recommended that it ensures the terms and conditions of work for prisoners are similar to those of workers engaged in free employment in the relevant economic sector. In particular, prisoners should enjoy the same occupational safety and health standards as free workers, while having access to comparable wage levels and social security benefits, allowing for differences that account for deductions for food and lodging. It is also recommended that employers make sure prisoners have offered themselves voluntarily for work, without being subject to pressure or the threat of a penalty, for example the loss of rights or privileges within the prison. One way to do this is to have prison workers provide written consent to work.



Coercion

1 If an employee has verbally or in writing provided his or her consent to work, how can there be a question of forced labour?

The formal consent of an employee does not always guarantee that the employee works out of free will. For example, where consent to work has been given under the threat of a penalty (for example, a threat of violence) there can be no “voluntary offer” by the employee. In this case, an external constraint or indirect coercion interferes with a worker’s freedom to offer him- or herself voluntarily. This constraint may result from an act of the authorities, such as a statutory instrument, or it may result from an employer’s practice, for example where migrant workers are induced by deceit, false promises and retention of identity documents or forced to remain at the disposal of an employer. Such practices are considered forced labour as defined by ILO Conventions.

2 Is the retention of personal documents during the term of employment considered forced labour?

Not necessarily. However, the key element in many situations of forced labour is coercion: forcing people to work when they do not freely consent. Migrant workers may be coerced through withholding their passports. The retention of these documents or other valuable personal possessions can be considered an indicator of forced labour if workers are unable to access them at their discretion and if they feel they cannot leave employment without risking the loss of the documents. In many cases, without such documentation, an employee may not be able to obtain another job or even access certain services as a citizen. In cases where the employer is holding onto workers’ documents for safekeeping, workers must have access to the documents at all times, and there should be no constraints on the ability of the worker to leave the enterprise.

3 Is compulsory overtime required to meet production deadlines considered forced labour?

The obligation to do overtime work is not considered forced labour if it stays within the limits permitted by national legislation or agreed to in collective agreements. This means that, according to international standards, forced labour only occurs if overtime beyond the weekly or monthly limits allowed by law is compulsory, irrespective of the reasons for such overtime. If an employer

requires employees to work under such conditions, in clear violation of the law and with the threat of a penalty, forced labour may occur.

However, in some cases, it has also been observed that the fear of dismissal drives some employees to work overtime beyond what is allowed under national law; in other cases, workers may feel obliged to work above the legal maximum because this is the only way they can earn the minimum wage (for example, where remuneration is based on productivity targets). In these cases, although workers may in theory be able to refuse to work, their vulnerability may mean that they have no choice and are therefore obliged to do so in order to earn the minimum wage or to keep their jobs, or both. This can lead to cases of forced labour and should therefore be treated carefully, in accordance with national law and collective agreements.

4 If a company provides full wages and benefits, can a forced labour problem ever arise?

If a person is not free to leave his or her employment under the threat of penalty this constitutes forced labour, regardless of whether you provide wages or other forms of compensation.

5 What are debt bondage and bonded labour?

Debt-induced forced labour is commonly referred to as bonded labour in south Asia, but is also widely known as debt bondage. According to ILO research, bonded labour can be found in agriculture, brick kilns, rice mills, and other economic activities in south Asia and Latin America. It can also be detected in leather, fish processing and carpet factories. Victims are typically the poorest people in society, often illiterate and relatively easy to deceive and be kept in ignorance of their rights; if they try to leave their employment, they are usually caught and returned by force. In some regions, members of indigenous and tribal peoples are the most affected.

Debt bondage is legally defined in the *UN Supplementary Convention on the Abolition of Slavery* (1956) as “the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.”

Bonded labour can affect a whole family when a male head of the household pledges not only his labour but that of family members to receive an advance payment from his employer or credit in case of need. Debt bondage (and other forms of coercion) is often based on a complex system of contractors and sub-

contractors who all take their cut from indebted workers, some of whom work for years without generating any substantial income.

6 How do people get coerced into forced labour?

The key element to many situations of forced labour is coercion to induce people to work when they do not freely consent. There are many forms of coercion that you should be aware of:

- Birth/descent into “slave” or bonded status;
- Physical abduction or kidnapping;
- Sale of a person into the ownership of another;
- Physical confinement in the work location;
- Psychological compulsion, i.e. an order to work, backed up by a threat of penalty;
- Induced indebtedness (by falsification of accounts, inflated prices, reduced value of goods, etc.);
- Deception or false promises about types and terms of work;
- Withholding or non-payment of wages; and
- Retention of identity documents or other valuable personal possessions.

Sometimes people freely enter into work arrangements, but are prevented from leaving if they change their minds. This also constitutes coercion.

7 If a company requires an employee to work for a specified period of time to recoup the costs associated with training, is this considered forced labour?

Companies sometimes make significant investments to improve the skills or knowledge of their staff, particularly when the training is only available overseas. They may then conclude an agreement with the trainee to work for the company for a certain period of time, so as to recoup the cost of investment. Such agreement reduces the freedom of the worker-trainee to terminate the employment relationship, and could thus – in some cases – give rise to a forced labour situation. However, several factors should be taken into account to determine whether a situation amounts to forced labour, for example:

- The length of the period the worker-trainee has agreed to stay with the company following the training;
- The period needed to recoup the costs, and whether this is reasonable

considering the duration and cost of training; and

- Whether the worker-trainee may resign if he or she reimburses part of the costs of the training.

8 To prevent theft and protect the security of my employees and property, I hire security personnel and lock the doors of my workplace. Is this considered forced labour?

As with the retention of personal documents, locking doors can be considered an indication of forced or compulsory labour. It restricts workers' freedom of movement and raises questions about the voluntary nature of employment. However, the important point here is to remember that forced labour is characterised by the threat of a penalty and concerns work or service that is undertaken involuntarily. If there is no threat of a penalty and work is undertaken voluntarily, this is not considered forced.

Similarly, posting security guards at factory exits for security reasons is not to be considered forced labour. However, the inappropriate use of security personnel could be an indication of forced labour and should therefore be avoided and treated with caution.

9 Is a person who feels forced to work to escape poverty or starvation a victim of forced labour?

The fact that a person has to work to sustain him- or herself does not make the work or service forced labour, as long as the person has the ability to accept the work and leave it (providing appropriate notice to the employer) without a fear of sanction – in other words their position of vulnerability is not taken advantage of.

10 Can a minor be considered to have offered him- or herself voluntarily for work if the consent of the parents has been obtained by the employer?

Most countries have established a minimum age limit for concluding a labour contract, which may coincide with the age at which compulsory school attendance ends. However, employment that is likely to jeopardise health, safety or morals is generally prohibited for persons below 18 years of age, so that neither the children nor those with parental authority over them may give valid consent to their admission to employment.

Human Trafficking & Forced Labour

1 What is human trafficking?

Men, women and children can be trafficked for the purpose of forced labour. It involves the movement of a person, usually across international borders, for the purpose of exploitation. In recent years, human trafficking has taken on new forms and dimensions, often linked to developments in information technology, transportation and transnational organised crime. It affects developing countries, countries in transition and industrialised market economy countries as source, transit and destination countries. It is legally defined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, or the “Palermo Protocol”, which supplements the United Nations Convention against Transnational Organised Crime (2000).⁴ The definition emphasises the following key points:

- The activities involved in human trafficking can include the recruitment, transportation, transfer, harbouring or receipt of a person;
- The means used can include force, deception, abduction, coercion, fraud, threats, abuse of power or a position of vulnerability; and
- The purpose is identified as exploitation, which includes forced labour or services, slavery or similar practices, and servitude.

In addition, the Palermo Protocol distinguishes between trafficking in children (under 18 years old) and adults. Any of the illicit means mentioned above are irrelevant in the case of child trafficking. Child trafficking is also defined as one of the worst forms of child labour in ILO Convention 182.

⁴ An excerpt of the “Palermo Protocol” can be found in Annex 1 of [Booklet 1: Introduction & Overview](#). According to the Protocol, trafficking in persons shall mean “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

2 What are the causes of trafficking in persons?

There are many factors that can be seen as a cause of human trafficking and play a role in fuelling its growth in recent years. These include:

- Growing inequality between and within States;
- Lack of information about the dangers of trafficking;
- Lack of information on safe migration opportunities;
- Lowering of barriers to the movement of persons and goods, as well as improved and cheaper means of transportation across borders;
- Raising of barriers to legal immigration to industrialised countries;
- Poor labour market governance, for example underdeveloped labour law and low levels of development of labour administration, including inspection services;
- Profitability of labour and sexual exploitation attracting the interest of organised crime; and
- Desire for a better life on the part of the migrant, and ignorance about the consequences of trafficking.



Further Information & Resources

1 Where can I get more information about forced labour and human trafficking?

Further information about forced labour, trafficking and ILO action can be obtained from the website www.ilo.org/forcedlabour or by contacting directly the ILO Special Action Programme to Combat Forced Labour:

Email: forcedlabour@ilo.org

Fax: +41 22 799 65 61

You can also consult the following key resources and websites:

- ILO: *Cost of coercion*, Geneva, 2009.
- ILO: *A global alliance against forced labour*, Geneva, 2005.
- ILO: *Eradication of forced labour*, Geneva, 2007
- ILO: *Forced labour and human trafficking: Handbook for labour inspectors*, Geneva, 2008.
- ILO: *Profits and poverty: The economics of forced labour*, Geneva, 2014.
- ILO: *Action against trafficking in human beings*, Geneva, 2008.
- ILO: *Trafficking for forced labour: How to monitor the recruitment of migrant workers*, Geneva, 2006.
- ILO: *An information guide: Preventing discrimination, exploitation and abuse of women migrant workers*, Geneva, 2003.

IOE policy statements

- IOE, *The informal economy: An employer's approach*, Geneva, 2006.
- IOE, *The role of business within society*, Geneva, 2005.
- IOE, *Corporate social responsibility: An IOE approach*, Geneva, 2003.
- IOE, *Fact sheet for business: Corporate Social Responsibility*, Geneva, 2013.
- IOE, *Codes of conduct: Position paper of the IOE*, Geneva, 1999.
- IOE, *UN Guiding Principles on Business and Human Rights: An employers' guide*, Geneva, 2012.
- IOE, *Fact Sheet for Business: Business and Human Rights*, Geneva, 2012.

- IOE, *Fact Sheet for Business: Human Trafficking*, Geneva, 2012.
- IOE, *Fact Sheet for Business: Forced labour in the fisheries sector*, Geneva, 2013.
- IOE-ILO, *Guidance note on the 2014 Protocol to the Forced Labour Convention, 1930*, Geneva, 2014.

Other relevant resources

- Anti-Slavery International, *Arrested Development: Discrimination and slavery in the 21st century*, London, 2008.
- Anti-Slavery International, *Debt Bondage*, London, 1998.
- Institute for Human Rights and Business, *Dhaka Principles for Migration with Dignity*
- US Department of Labour, *Reducing Child Labour and Forced Labour: A Toolkit for Business*. (<http://www.dol.gov/ilab/child-forced-labor/>)
- US State Department, *Trafficking in Persons Report 2014*.
- Verité, *Fair Hiring Toolkit*. (www.verite.org/helpwanted/toolkit)
- UN Guiding Principles on Business and Human Rights, 2011.

- 1 Introduction & Overview
- 2 **Employers' Frequently Asked Questions**
- 3 Guiding Principles to Combat Forced Labour
- 4 A Checklist & Guidance for Assessing Compliance
- 5 A Guide for Taking Action
- 6 Tips for Taking Action
- 7 Case Studies

Special Action Programme to Combat Forced Labour

Fundamental Principles and Rights at Work Branch

International Labour Office
Route des Morillons 4
CH-1211 Geneva 22
forcedlabour@ilo.org
www.ilo.org/forcedlabour

ISBN 9789221297994



9 789221 297994



International
Labour
Organization

Combating Forced Labour

3

Guiding Principles to Combat Forced Labour

A Handbook for Employers & Business
Special Action Programme to Combat Forced Labour

**Combating Forced Labour
A Handbook for Employers & Business**

3

Guiding Principles to Combat Forced Labour

Copyright © International Labour Organization 2015
First published 2015

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Licensing), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: rights@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with a reproduction rights organization may make copies in accordance with the licences issued to them for this purpose. Visit www.ifrro.org to find the reproduction rights organization in your country.

ILO Cataloguing in Publication Data

Combating forced labour: a handbook for employers and business / International Labour Office.-- 2nd ed. - Geneva: ILO, 2015

ISBN: 9789221297994 (print); 9789221298007 (web pdf)

International Labour Office

forced labour / trafficking in persons / employers role

13.01.2

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and digital products can be obtained through major booksellers and digital distribution platforms, or ordered directly from ilo@turpin-distribution.com. For more information, visit our website: www.ilo.org/publns or contact ilopubs@ilo.org.

Acknowledgements

Special thanks are due to Philip Hunter (Verité) and, for graphic design, Julie Sobkowicz Brown for developing the revised handbook in close consultation with Houtan Homayounpour (SAP-FL), who coordinated and oversaw the project.

Printed in Switzerland

Guiding Principles to Combat Forced Labour

These guiding principles to combat forced labour are drawn from ILO Conventions, Protocols and Recommendations, ILO instruments such as the Declaration on Fundamental Principles and Rights at Work and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,¹ and the UN Guiding Principles on Business and Human Rights. The principles address business actors, and aim to provide clear and practical interpretation of international labour standards.

¹ See the Annex to [Booklet One: Introduction & Overview](#) for excerpts of selected international instruments.

Prison Labour

- i. Work or service can only be required from prisoners who have been convicted in a court of law. Such work or service must be carried out under the supervision and control of a public authority, for example the prison administration of a State-run facility. Prison workers must not be hired to or placed at the disposal of private individuals, companies or associations. Compulsory work or service by prisoners is not allowed for private undertakings either inside or outside the prison, or within privately administered prisons.
- ii. Work or service performed by prisoners in a private undertaking must be voluntary. Prison workers must give their consent to working for a private employer without being subject to a threat or penalty, including the loss of rights or privileges within the prison.
- iii. Conditions for prisoners who have consented to work within private undertakings should approximate the conditions enjoyed by free workers. Prison workers should have access to wage levels, social security benefits and occupational safety and health standards that approximate a free labour relationship. Reasonable differences in wage levels are acceptable on the basis of deductions made for board and lodging.

Coercion

- i. **Freedom of Employment:** All workers shall have the right to enter into employment voluntarily and freely, without the threat of a penalty.
- ii. **Termination of Employment:** Workers shall have the freedom to terminate employment of indefinite or long duration by means of notice of reasonable length (in accordance with national law or collective agreement) at any time without penalty. Workers on contracts of fixed duration shall not be required to serve beyond the expiry of their contract. Employers shall not use means to restrict a worker's ability to terminate employment, for example by requiring deposits, withholding employee documentation, threats or use of violence, imposing financial penalties or requiring payment of recruitment fees.
- iii. **Threat of Violence, Harassment & Intimidation:** Employers shall not exact work or service from any person under the menace of any penalty. This includes the use or threat of physical or sexual violence, harassment

and intimidation against the worker, his/her family or close associates with the aim of coercion.

iv. Coercion in Wage Payment, including Debt Bondage and Bonded Labour:

- (a) Wages shall be paid regularly and methods of payment are prohibited that deprive workers of the genuine possibility of terminating employment. Wage payments shall not be delayed or deferred such that wage arrears accumulate.
- (b) Wages shall be paid directly to the worker and should be paid in legal tender, or by cheque or money order where permitted by law, collective agreement or with the consent of the worker. Payment in the form of vouchers, coupons or promissory notes is prohibited.
- (c) Payments “in-kind” in the form of goods or services shall not be used to create a state of dependency of the worker on the employer. “In-kind” payments should only be partial to ensure that the worker is not totally deprived of cash remuneration and are permitted only if authorised by national law, regulation or collective agreement.
- (d) Workers that earn wages calculated on a performance-related or piece-rate basis shall not earn less than the legally mandated minimum wage.
- (e) Workers shall not be held in debt bondage or forced to work for an employer in order to pay off an actually incurred or inherited debt.
- (f) Deception in wage payment, wage advances, and loans to employees shall not be used as a means to bind workers to employment. Advances and loans, and deductions from wages made for their repayment, shall not exceed the limits prescribed by national law. Workers shall be duly informed of the terms and conditions surrounding the granting and repayment of advances and loans.
- (g) No deductions from wages shall be made with the aim of indebting a worker and binding him or her to employment, and measures should be taken to limit wage deductions to prevent such conditions. Workers shall be informed of the conditions and extent of wage deductions, and only deductions authorised by national law, collective agreement or arbitration award shall be made.
- (h) Workers shall not be compelled to make use of stores or services operated in connection with an undertaking. Where access to other stores or services is not possible, employers shall ensure that goods or services are sold or provided at fair and reasonable prices, without the aim of indebting or otherwise coercing the workers concerned.

v. Disciplinary Measures

- (a) Disciplinary measures should not include sanctions that result in an obligation to work.
- (b) Compulsory labour shall not be used to discipline workers or as punishment for participation in a strike.

vi. Compulsory Overtime

- (a) Workers shall not be forced to work overtime above the limits permitted in national law and collective agreements under the menace of a penalty, for example the threat of dismissal.
- (b) Work or service outside normal daily working hours shall not be imposed by exploiting a worker's vulnerability under the menace of a penalty. For example, employers shall not set performance targets that result in an obligation to work beyond normal working hours because of the worker's need to be able to earn the minimum wage.

vii. Freedom of Movement: Coercion shall not be used to physically confine or imprison workers to the workplace or related premises, for example employer-operated residences. Mandatory residence in employer-operated residences shall not be made a condition of employment.

viii. Conditions relating to Skills Development & Vocational Training: Training opportunities provided to employees shall be undertaken voluntarily. Employers that provide such opportunities shall not unreasonably impose work or service as a means of recovering the costs associated with them.



Human Trafficking & Forced Labour

i. Migration for Employment:

- (a) Migrant workers, irrespective of their legal status, shall be treated fairly, and measures shall be taken to prevent abusive conditions and fraudulent practices that may lead to coercion and trafficking for labour exploitation.
- (b) Migrant workers shall benefit from conditions of work no less favourable than those available to local workers, and shall have the right to enter into and terminate employment (with reasonable notice in accordance with national law or collective agreement) voluntarily and freely, without the threat of a penalty.
- (c) Employers shall not threaten irregular migrant workers or their family members with denunciation to the authorities or otherwise coerce such workers into taking up or maintaining employment.

ii. **Recruitment of Migrant Workers:** No fee or cost for recruitment shall be charged directly or indirectly, in whole or in part, to the worker. If an exception is made, it should be in the interest of the workers concerned, and after consulting the most representative organizations of employers and workers. All costs related to recruitment should be disclosed to the workers.

iii. Document Retention:

- (a) Practices such as confiscating or withholding worker identity documents or other valuable items (e.g. work permits and travel documentation) are prohibited.
- (b) However, if requested by workers, employers may provide secure storage for such documents. Workers must then be free to access them at any time upon request.
- (c) Employers shall not retain personal documents for the purpose of binding workers to employment.

iv. **Private Employment Agencies:** Within their sphere of influence and to the best of their ability, employers that engage private employment agencies to recruit members of their workforce shall take measures to:

- Ensure that such agencies do not engage in fraudulent practices that place workers at risk of forced labour and trafficking for labour exploitation;

- Prevent the abuse of workers contracted by such agencies, for example by ensuring that such workers receive adequate protection in relation to wage-related matters, working hours, overtime and other working conditions;
 - To the greatest extent possible, ensure that fees or costs related to recruitment are not borne by workers but by the contracting company;
 - Use only those recruitment agencies that are licensed or certified by the competent authority.
- v. **Contracts of Employment:** Employers shall provide written contracts of employment in language that migrant workers can easily understand and that clearly indicate their rights and responsibilities with regard to payment of wages, working hours, valid grounds for termination, and other issues related to preventing forced labour.

Worst Forms of Child Labour²

- i. Employers shall take immediate and effective measures to prevent and eliminate the engagement of children in the worst forms of child labour, including debt bondage, serfdom, forced or compulsory labour, and all forms of slavery and practices similar to slavery, such as the sale and trafficking of children.
- ii. Employers that engage private employment agencies shall ensure that such agencies do not engage children in the worst forms of child labour as indicated above.

² For more guidance on the worst forms of child labour, see the 2007 ILO/IOE guides for employers on eliminating child labour.

- 1 **Introduction & Overview**
- 2 **Employers' Frequently Asked Questions**
- 3 **Guiding Principles to Combat Forced Labour**
- 4 **A Checklist & Guidance for Assessing Compliance**
- 5 **A Guide for Taking Action**
- 6 **Tips for Taking Action**
- 7 **Case Studies**

Special Action Programme to Combat Forced Labour

Fundamental Principles and Rights at Work Branch

International Labour Office
Route des Morillons 4
CH-1211 Geneva 22
forcedlabour@ilo.org
www.ilo.org/forcedlabour





International
Labour
Organization

Combating Forced Labour

4

A Checklist &
Guidance for Assessing
Compliance

A Handbook for Employers & Business
Special Action Programme to Combat Forced Labour

**Combating Forced Labour
A Handbook for Employers & Business**

4

**A Checklist & Guidance for Assessing
Compliance**

Copyright © International Labour Organization 2015
First published 2015

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Licensing), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: rights@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with a reproduction rights organization may make copies in accordance with the licences issued to them for this purpose. Visit www.ifrro.org to find the reproduction rights organization in your country.

ILO Cataloguing in Publication Data

Combating forced labour: a handbook for employers and business / International Labour Office.-- 2nd ed. - Geneva: ILO, 2015

ISBN: 9789221297994 (print); 9789221298007 (web pdf)

International Labour Office

forced labour / trafficking in persons / employers role

13.01.2

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and digital products can be obtained through major booksellers and digital distribution platforms, or ordered directly from ilo@turpin-distribution.com. For more information, visit our website: www.ilo.org/publns or contact ilopubs@ilo.org.

Acknowledgements

Special thanks are due to Philip Hunter (Verité) and, for graphic design, Julie Sobkowicz Brown for developing the revised handbook in close consultation with Houtan Homayounpour (SAP-FL), who coordinated and oversaw the project.

Printed in Switzerland

Introduction

This sample checklist is designed for compliance personnel operating in companies or third party organisations providing services to companies. It presents a series of questions and technical and policy guidance based on **Booklet 3: Guiding Principles to Combat Forced Labour**.

The aim of this checklist is to help compliance personnel perform better assessments. Such assessments are a key link in the implementation of corporate codes of conduct and enable auditors to identify forced labour at enterprise level and in global supply chains. Broadly speaking, an effective social audit can make an important contribution to the identification, prevention and eradication of forced labour.

The checklist is divided by topic into the following sections:

- Prison labour;
- Coercion; and
- Human trafficking and forced labour.

Each topic contains a principal question, which is followed by one or more sub-questions. This, in turn, is followed by policy guidance, which summarises the **Guiding Principles to Combat Forced Labour** and, wherever possible, includes illustrative examples. Suggestions are then provided on assessment methods, including:

- A review of relevant company and employee documentation;
- An inspection of the workplace and related facilities (e.g. dormitories);
- On and off-site interviews with workers and their representatives; and
- Interviews with different management representatives.

The questions in this checklist are not designed to be posed to managers or workers directly; instead, information should be gathered using all of the above-mentioned methods, and auditors are encouraged to cross-reference data to ensure its accuracy.

The checklist can also be used effectively by employers' organisations and their members as a first step in the assessment of business operations. For example, an employers' organisation – in seeking to meet the needs of its members – may wish to use the checklist to help them more effectively identify possible cases of forced labour. At the same time, a regular assessment using the questions and guidance provided here could be part of broader preventive

measures adopted by employers' organisations and offered as a service to their members.

This checklist can be used to greatest effect alongside Booklets 1, 2 and 3 of this handbook. In case you are unfamiliar with any of the terms used below, consult the accompanying [Introduction & Overview](#) and [Employers' Frequently Asked Questions](#) for clarification. Review the [Guiding Principles to Combat Forced Labour](#) and the relevant ILO standards for further guidance on policy.

Checklist & Guidance for Assessing Compliance

Prison Labour

? 1. Does the employer use any prison labour?

If prisoners are working under the supervision of a private employer, have the prison labourers freely consented to perform work without being threatened or subject to a penalty?

If prisoners are working under the supervision of a private employer, do the working conditions resemble those of a free labour arrangement?

i *Work or service performed by prisoners in a private undertaking must be voluntary, and prison workers must freely give their consent without being subject to a threat or penalty, including the loss of rights or privileges inside the prison. Conditions for prisoners working for private employers should be comparable to conditions enjoyed by free workers. For example, prison workers should have access to similar wage levels, social security benefits and the same occupational safety and health standards. Reasonable differences in wage levels are acceptable on the basis of deductions made for board and lodging.*

- 🔍** • If possible, speak with prison workers directly and examine written consent forms.
- Consider whether prison workers have given their consent freely and voluntarily.
- Review wage records of prison workers to verify that they are paid wages comparable to free workers, allowing for legal deductions.
- Assess occupational safety and health standards by inspecting the workplace either inside or outside the prison.
- Speak with the employer about employment policies and practices related to prison workers or contracting work or service to prisons.
- Ensure that no prisoner has suffered loss of rights or privileges of any kind as a result of declining to work for a private employer.
- Where relevant, review contracts concluded between the prison and

company using prison workers.

- To the extent possible, ensure that information gathered from interviews with prison workers remains anonymous and confidential.
- Take appropriate measures to determine whether prison workers have been coached prior to being interviewed.




Freedom and Termination of Employment

2. Do all workers have the right to enter into employment voluntarily and freely, without the threat of a penalty?


Is there evidence of coercion in recruitment or that workers' consent has been forced, for example under threat or pressure?

3. Do workers have the freedom to terminate employment (by means of notice of reasonable length) at any time without a penalty?

Is there any evidence that the employer has obstructed the legal termination of an employment contract at any time?

 *All workers shall have the right to enter into and leave employment voluntarily and freely, without the threat of a penalty, and taking into account the legal rights and responsibilities of both parties in the employment relationship. Coercion should not be used under any circumstances to threaten workers or pressure them into accepting or staying in a job. A worker's vulnerability should not be used to offer employment conditions below the legal minimum, and employers should refrain from using any practices that restrict a worker's ability to terminate employment, for example:*


- *Withholding employee identity documents, including passports;*
- *Imposing financial penalties on workers;*
- *Delaying or halting wage payments; or*
- *Threatening workers with violence.*


-  • Speak with appropriate management personnel about employment policies and examine copies of these policies.
- Check national law and employment contracts, and consider provisions on notice periods for terminating both indefinite and fixed duration contracts.
- Speak with workers about their rights and responsibilities under the law to determine whether they have entered into and can leave employment freely, without suffering any threat or consequence. Make sure to interview

a representative selection of workers, including those on different types of contracts.

Threat of Violence, Harassment and Intimidation

4. Is there any evidence of the use or threat of physical or sexual violence, harassment or intimidation against workers, their families or close associates?

 *Threats or use of violence, harassment or intimidation directed towards workers, their families or their close associates shall not be used as a means to intimidate individual employees or the workforce as a whole.*

-  • Speak with workers individually, and keep in mind the sensitive nature of this issue. Take particular care to ensure the confidentiality of these interviews to protect the worker from any possible reprisals. If possible, meet workers off-site.
- Discuss with employers the company policy on violence, harassment and intimidation in the workplace, and examine copies of such policy.
- Examine legal records for any evidence of outstanding complaints or actions taken against the company, for example in a labour tribunal, to determine whether there have been past allegations of the use or threat of physical or sexual violence, harassment or intimidation against workers and their families.

Coercion in Wage Payment, including Debt Bondage and Bonded Labour

- ?** 5. Does the employer use irregular, delayed, deferred or non-payment of wages as a means to bind workers to employment?
6. Are non-cash or “in-kind” payments used as a means to create a state of dependency of the worker on the employer?
7. Is there any evidence that wages are paid in the form of vouchers, coupons or promissory notes?
8. Do workers earning wages on a piece-rate or performance-related basis earn the legally mandated minimum wage?
9. Is there any evidence that workers are required to lodge deposits or that unlawful or unauthorised deductions from wages are made with the aim of indebting workers?
10. Do wage advances or loans provided to workers comply with national law?
11. Are workers forced to work in order to repay an actually incurred or inherited debt?

i *Non-compliance in wage payment practices – for example, a delay or irregularity in payment – is not automatically considered forced labour. However, certain abuses, particularly when combined with other types of exploitation, can amount to situations of coercion and force in employment.*

Wages should be paid regularly and directly to the worker; they should be paid in legal tender, and “in-kind” payments, where allowed by law, should only be partial. Non-cash payment should not be used as a means to indebted a worker, and payment in the form of vouchers and promissory notes is prohibited, as are methods of payment that have the effect (intended or not) of depriving the worker of the ability to terminate employment. Workers shall not be held in debt bondage or forced to work in order to pay off an actually incurred or inherited debt. Wage advances and loans (and related interest rates) should not exceed the limits prescribed by law. Abusive practices shall not be used to bind workers, including migrant workers and those belonging to indigenous and tribal peoples, to employment. Such abusive practices may include, but

are not limited to:

- *Charging excessive recruitment fees;*
- *Delayed or non-payment of wages, and allowing wage arrears to accumulate;*
- *Deception in the calculation and payment of wages, including wage deductions;*
- *Requiring workers to lodge deposits; and the*
- *Offer of wage advances or loans with malicious intent, or charging excessively high interest rates.*



- Examine wage slips to determine whether coercion has been used at any time in the payment or non-payment of wages, or whether there is evidence of unlawful or unexplained deductions. In examining wage records, consider whether workers paid at piece-rate receive the legal minimum wage.
- Speak with workers about wage payment practices (i.e. whether wages are paid on time and calculated correctly, taking into consideration overtime and legal deductions); how they were recruited; and whether or not they were required to lodge a deposit or pay a recruitment fee, either to the employer or to a third party.
- Ensure that a representative cross-section of workers is interviewed, for example those on indefinite and fixed duration contracts as well as those paid hourly and piece-rate wages.
- Speak with managers and human resource personnel about recruitment and payment policies and practices.
- Determine whether the sale of company goods, tools or uniforms is used as a means to create a state of dependency of the worker on the employer.
- Examine financial records relating to wage advances and loans, if applicable.
- Review a random selection of payroll and other wage-related records to consider whether there is evidence of malpractice. Take appropriate measures to ensure that the company is not using a double set of “books” to mislead auditors.
- Consider whether special attention should be paid to the rights of indigenous and tribal peoples and/or migrant workers, and take appropriate measures to determine whether the company sub-contracts to informal workshops where the risk of bonded labour and debt bondage might be higher.

- If the employer uses a private employment agency to hire workers, speak with management about policies related to this. Where possible, meet with representatives of such employment agencies to discuss recruitment policies and procedures.
- Cross check information provided by management and workers to determine validity.

Disciplinary Measures

? 12. Is there any evidence that disciplinary sanctions require or result in an obligation to work, for example through punishment for having participated in a strike?

i *Broadly speaking, disciplinary measures in the workplace should not include sanctions that result in an obligation to work, and forced or compulsory labour should not be imposed as a means to discipline workers or to punish them for having participated in a strike. Disciplinary sanctions or sanctions of a monetary character that do not involve an obligation to work are not considered as contravening international standards concerning forced or compulsory labour.*

- 🔨** • Speak with a broad cross section of workers to determine whether disciplinary measures require or result in an obligation to work. Make a special effort to identify and interview workers who have been disciplined for different types of infractions.
- In cases where strike action has occurred recently, speak with workers who participated in or led the strike to determine whether they faced punishment for having done so and whether this punishment involved an obligation to work.
- Review company documentation regarding disciplinary measures and sanctions (e.g. company policies and procedures; and written warnings or reprimands given to workers) to determine whether the company imposes work as a means of disciplining workers.
- Speak with managers about policies concerning disciplinary measures and, in particular, about management responses to strike action. Also make an effort to speak with supervisory staff to determine whether the measures used to discipline workers result in an obligation to work.

Compulsory Overtime

? 13. Are workers forced to work more overtime hours than allowed by national law or (where relevant) collective agreement, under the menace of a penalty?

Is there evidence that the employer exploits workers' vulnerability and uses threats to impose work or service beyond normal working hours, for example a threat of dismissal or an economic sanction?

Are workers forced to work more overtime hours than allowed by law or collective agreement in order to earn the legal minimum wage?

i *Abusive working conditions related to overtime are not automatically situations of forced labour. However, they can become situations of forced labour if employees are required – under the threat of penalty – to work more overtime hours than allowed by law or collective agreement, where the latter exists.*

For example, in some cases, fear of dismissal drives workers to work overtime hours well beyond what is allowed under national legislation, while in others, where remuneration is based on productivity targets, workers may be obliged to work beyond normal working hours, as only in so doing can they earn the minimum wage. Workers in these situations may in theory be able to refuse work beyond normal working hours. However, if they are in a vulnerable situation, this may mean that in practice they have no choice and are obliged to work in order to keep their jobs or earn the minimum wage, or both. In this case, if work is imposed by exploiting the worker's vulnerability, under the menace of a penalty, dismissal or payment of wages below the minimum level, this is not only a matter of poor conditions of employment but of forced or compulsory labour.

- 🔪 • Speak with workers about whether or not they are ever required to work more than the legally mandated amount of overtime per day, week or month. Where relevant, examine provisions in employment contracts concerning hours of work and overtime, and discuss these with workers.
- Consider whether threats have been used to force employees to work, for example the threat of dismissal.
- Consider whether any workers have suffered a penalty of any kind for refusing to work overtime beyond the legally mandated maximum.
- Examine a representative sample of daily time sheets, and cross-reference these with productivity logs to determine whether employees work overtime “off the clock”.

- Speak with managers about the use of overtime, particularly in reference to meeting production deadlines. Consider whether managers know what the law states concerning use of overtime.
- Examine company policies related to overtime.
- Examine workers' time sheets, ensuring a representative selection that includes different categories of workers as well as those on different types of contracts.
- Consider visiting the workplace during "off hours" to determine whether workers are working "off the clock."

Freedom of Movement

? 14. Is there evidence that workers are physically confined to the workplace or to employer-operated residences (e.g. dormitories) outside working hours?

Is there evidence of any other restrictions on workers' freedom of movement?

i *Workers should not be confined, imprisoned or in any way detained in the workplace or employer-operated residences, either during or outside working hours. Illegal restrictions on workers' freedom of movement are prohibited. However, reasonable limitations to movement within the workplace during work hours are permitted under conditions related to workplace discipline.*

- 🔧** • Speak with managers and human resource personnel about company policies concerning employer-operated residences. Examine these policies.
- Consider company security measures and, in particular, the role and responsibilities of security personnel. Consider whether guards are inappropriately used to restrict workers' movement inside or outside the workplace.
- Speak with workers about conditions related to freedom of movement in the workplace and in and around dormitories.
- Consider using a site inspection to examine both the workplace and employer-operated residences.

Conditions relating to Skills Development and Vocational Training

? 15. If the employer provides training opportunities, are workers subsequently required to work for an established period of time to enable the employer to recoup costs?

Do workers have the right to terminate employment before the end of this period, against the repayment (total or partial) of the training cost to the company?

i *Training opportunities provided to employees should be undertaken voluntarily, and employers providing such opportunities should not unreasonably impose work or service as a means of recovering the costs associated with them. The key principle here is the freedom of the worker to terminate employment. It is recommended that employers not stipulate that workers cannot terminate employment before the costs have been paid back.*

- 🔧** • Examine wage records for evidence of deductions related to training costs.
- Review employment contracts for provisions relating to training opportunities and related payment arrangements.
- Identify and speak with workers who have benefited from training opportunities. Determine the conditions under which they have been offered and participated in such training.
- Speak with management about training policies and matters related to freedom to terminate employment. Examine training and termination policies.

Migration for Employment and Recruitment of Migrant Workers

? 16. Are migrant workers treated fairly and do they benefit from conditions of work that are no less favourable than those available to locally-recruited workers?

17. Is there any evidence that migrant workers or their family members have been threatened with denunciation to the authorities to coerce them into entering or maintaining employment?

18. Are workers required to pay a fee to the employer or an intermediary to get a job?

Is there evidence that workers have lodged a deposit upon commencing employment?

If national law allows recruitment fees to be charged to workers, are workers free to terminate employment at any time, without threat or penalty related to repayment?

19. Do workers retain control over their personal documents (e.g. birth certificates, passports, work permits, residence permit and/or identity cards)?


20. Is there any evidence that employers withhold or confiscate worker identity documents?

If the employer has been requested by workers to retain personal documents for security or other reasons, do workers have access to these at any time upon request?

21. Have measures been taken by the employer to prevent abusive conditions and fraudulent practices that may lead to coercion and trafficking for labour exploitation?

i *Migrant workers should be treated fairly, irrespective of their legal status, and benefit from conditions of work that are no less favourable than those available to domestic workers. They must have the right to voluntarily and freely enter into and terminate employment (with reasonable notice in accordance with national law or collective agreement), without being subject to threats of any kind. Employers should take measures to prevent abusive conditions and fraudulent practices that may lead to coercion or trafficking for labour exploitation. Irregular migrant workers and their family members should never be threatened with denunciation to the authorities or otherwise coerced into employment.*

Practices such as confiscating or withholding worker identity documents are prohibited. However, if requested by employees, employers may provide secure storage for such documents, provided that workers have free access to them at all times. Employers may also wish to provide workers with photocopies of the original documents, and “receipts” that indicate which documents have been lodged with the employer.

-  • Consider whether migrant workers benefit from working conditions that are comparable to domestic workers.
- Review wage records to ensure that wage levels are the same for domestic and migrant workers.
- Examine company policies and migrant workers' contracts, and consider provisions concerning entering into and terminating employment.
- Speak with migrant workers about how they were recruited. Inquire about whether they had to pay a fee to the employer or an intermediary, or lodge a deposit. Consider whether workers feel free to terminate employment in cases where they have paid a recruitment fee.
- If management has been asked by workers to retain their identity documents, examine the location of these documents, speak with workers about whether they have free access to them at all times, and interview managers or human resource personnel about company policies and procedures. Inquire into the conditions under which workers access their personal documents.
- Speak with management about any measures undertaken to prevent abusive conditions and fraudulent practices related to migrant workers.
- Consider whether special attention should be paid to the rights of indigenous and tribal peoples and/or migrant workers. Cross check if the passports or any contract documents of migrant workers have been taken away by employers for “safe-keeping”.

Private Employment Agencies and Contracts of Employment

? 22. Is there evidence that employers who engage private employment agencies have taken measures to monitor such agencies and prevent abuses related to forced labour and human trafficking?

Are the agencies used only those that are licensed or certified by the competent national authority?

Does the employer ensure that workers contracted through employment agencies do not pay a recruitment fee to the agency?

23. Are written contracts of employment provided to all workers in a language they can easily understand?

24. Do contracts of employment clearly indicate the rights and responsibilities of workers with regard to wages, working hours, valid grounds for termination, and other issues related to forced labour?

i *Fees and costs related to recruitment should not be charged directly or indirectly, in whole or in part, to workers, but should rather be borne by the company or employer. Enterprises that have workers in the direct employ of private employment agencies should ensure that such workers receive adequate protection in relation to minimum wages, working hours, overtime and other conditions related to preventing forced labour.*

Employers should provide written contracts of employment in language that all workers can easily understand and that clearly indicate their rights and responsibilities with regard to payment of wages, working hours, valid grounds for termination, and other issues related to preventing forced labour.

- 🔧** • Speak with workers who have been recruited by private employment agencies or who are directly employed by them. Identify and speak with migrant workers, in particular, to discuss the terms under which they were recruited.
- Examine the contracts of employment of migrant workers and of other workers recruited or directly employed by private employment agencies.
- Consider the employment conditions of workers employed by these

agencies, in particular concerning wage payments, working hours, overtime, and other relevant issues.

- Examine wage slips for evidence of unexplained or illegal deductions.
- Speak with representatives of contracted employment agencies to discuss recruitment procedures. Examine related company policies.



Worst Forms of Child Labour¹

? 25. Is there any evidence that children have been engaged in the worst forms of child labour (for example, debt bondage, forced or compulsory labour, slavery or the sale and trafficking of children)?

i *The engagement of children in debt bondage, serfdom, forced or compulsory labour, all forms of slavery and practices similar to slavery, for example the sale and trafficking of children, is strictly prohibited. Employers shall take immediate and effective measures to prevent and eliminate these worst forms of child labour, and seek to ensure that any private employment agencies engaged on their behalf are not involved in such practices.*

- 🔨** • Develop measures to identify child labour in the workplace by using effective age estimation techniques and cross-referencing information gathered through site inspection, interviews with workers, a review of relevant company and worker documentation, and speaking with management.
- Speak with a representative cross-section of workers. Discuss conditions of work and, in particular, recruitment to determine whether safeguards exist to prevent and eliminate the engagement of children in the worst forms of child labour. Be mindful of the sensitive nature of this subject. Make sure to speak with workers that you suspect might be children.
- Speak with managers about policies concerning child labour and its worst forms. Examine these policies and inquire about specific measures used to prevent the recruitment or engagement of children in company operations and by private employment agencies. Also discuss measures to immediately remove and provide protection for children found working in the worst forms of child labour.

¹ For more information on the worst forms of child labour, see the 2007 ILO/IOE guides for employers on eliminating child labour.

- 1 Introduction & Overview
- 2 Employers' Frequently Asked Questions
- 3 Guiding Principles to Combat Forced Labour
- 4 **A Checklist & Guidance for Assessing Compliance**
- 5 A Guide for Taking Action
- 6 Tips for Taking Action
- 7 Case Studies

Special Action Programme to Combat Forced Labour

Fundamental Principles and Rights at Work Branch

International Labour Office
Route des Morillons 4
CH-1211 Geneva 22
forcedlabour@ilo.org
www.ilo.org/forcedlabour

ISBN 9789221297994



9 789221 297994



International
Labour
Organization

Combating Forced Labour

5

A Guide for Taking Action

A Handbook for Employers & Business
Special Action Programme to Combat Forced Labour

**Combating Forced Labour
A Handbook for Employers & Business**

5

A Guide for Taking Action

Copyright © International Labour Organization 2015
First published 2015

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Licensing), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: rights@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with a reproduction rights organization may make copies in accordance with the licences issued to them for this purpose. Visit www.ifrro.org to find the reproduction rights organization in your country.

ILO Cataloguing in Publication Data

Combating forced labour: a handbook for employers and business / International Labour Office.-- 2nd ed. - Geneva: ILO, 2015

ISBN: 9789221297994 (print); 9789221298007 (web pdf)

International Labour Office

forced labour / trafficking in persons / employers role

13.01.2

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and digital products can be obtained through major booksellers and digital distribution platforms, or ordered directly from ilo@turpin-distribution.com. For more information, visit our website: www.ilo.org/publns or contact ilopubs@ilo.org.

Acknowledgements

Special thanks are due to Philip Hunter (Verité) and, for graphic design, Julie Sobkowicz Brown for developing the revised handbook in close consultation with Houtan Homayounpour (SAP-FL), who coordinated and oversaw the project.

Printed in Switzerland

I. Introduction

Forced labour and employers

This booklet complements the other material provided in this handbook by outlining the many things employers can do at enterprise, industry and national levels to combat forced labour and human trafficking. It builds on the statements made in **Booklet 1** outlining the reasons why business and employers' organisations should take action to address these issues.

Until recently, forced labour has not been seen as a problem associated with business and employers' organisations. Rather, it has been associated with the human rights abuses of repressive States and armed forces, with little impact on the role and activities of the private sector. In recent years, however, this perception has begun to change. ILO research has shown that 90% of cases of forced labour around the world involve private actors, and human trafficking is a truly global phenomenon that can affect any country, region and economic sector.

Forced labour is a criminal practice prohibited in both international law and most national legislation. Any business facing sound allegations that it is profiting from such exploitation will not only face severe reputational damage: it may also face expensive lawsuits and criminal prosecution. Certainly, no business today can afford the negative implication of this association, whether it is in its own operations or in those of its supply chain.

The role of employers and business

Some key steps have already been taken by enterprises and business actors of all kinds. Companies are adopting policy measures – for example, codes of conduct – that explicitly prohibit forced labour, while others have joined multi-stakeholder initiatives such as the **UN Global Compact**. These are important initiatives. However, there is growing international consensus that much more still needs to be done. You may also wish to review the UN Guiding Principles on Business and Human Rights on the different roles of business and governments.

How to use this booklet

This booklet shows that action can be taken on many fronts. It presents information and guidance for enterprises and employers' organisations, and wherever possible indicates links to the tools provided in other parts of

the handbook. See **Booklet 6: Tips for Taking Action**, in particular, for a complementary discussion of the practical steps employers can take, and **Booklet 1: Introduction and Overview** for a list of resources and suggestions for further reading. It is not expected that companies and employers' organisations will undertake all of the activities indicated here. Each company is different and every organisation will develop its own approach to addressing these issues.

II Enterprise action and initiatives

Understanding the problem

In order for a company to deal effectively with forced labour, it is important for its management to first understand how forced labour is defined and how it manifests itself at enterprise level or within the supply chain. A manager or owner of a company may know that forced labour is against the law, but he or she may not know what forced labour is or the difference between it and exploitation or poor working conditions. As such, it is important to start with an understanding of the situation in order to raise awareness. An analysis of this kind can be undertaken internally or with the help of a consultant or another expert.

What is Forced Labour?

All relevant personnel within a company should have a clear understanding of forced labour and how it is defined in national legislation. Knowing this and related provisions of the labour and criminal codes will help the company comply with the law. It is also useful to examine the international definition provided in ILO Convention No. 29 (see **Booklet 1** for an excerpt of this Convention). This definition is accepted by the international community and states that forced labour is all work or service exacted from **any person** under the **menace of a penalty** and undertaken **involuntarily**.

It is also possible that your company supplies goods or services to other companies that define forced labour differently or that audit forced labour based on different criteria and indicators. This can be confusing, and definitions developed by CSR organisations may add to this confusion. To ensure smooth and continued access to international markets, it is best not only to adhere to the law, but to adopt policies and practices that reflect the highest requirements of your buyers.

i Definitions and explanations of forced labour can be found in **Booklet 1: Introduction and Overview** and **Booklet 2: Employers' Frequently Asked Questions**. Distribute these booklets amongst your staff to encourage a broad understanding of the subject.

Situation in the company

After developing an understanding of forced labour and considering how it might represent a risk to your company, the next step is to examine the current situation in your own operations and across your supply chain. This can be done through an internal assessment or third party verification. This assessment will determine whether forced labour exists in your enterprise and can take into consideration the aspects of your business that may be most at risk.

i An assessment of this kind will generally examine more than one labour rights issue at a time. As such, it is important to ensure that the aspect which focuses on forced labour is effective and comprehensive. Review **Booklet 4: A Checklist and Guidance for Assessing Compliance**. It provides specific recommendations on how to conduct such assessments.

Adopting effective policies and strategies

Strictly prohibiting forced labour and human trafficking in all company operations can play a central role in addressing these issues. An effective labour rights policy that includes such provisions is one of the most important first steps towards tackling forced labour at enterprise level.

Developing a company policy

In recent years, one form of labour rights policy has been the corporate code of conduct. These codes are formal statements of principle that govern the conduct of an enterprise and typically apply to suppliers and sub-contractors.

Codes of conduct almost always concern themselves with a number of labour rights issues, not just forced labour. They are particularly common in export industries such as garments and textiles and agriculture, but they are also found in construction companies, in hospitality and tourism, mining and other industries. Codes of conduct are one way that companies can formally (though voluntarily) commit themselves to addressing forced labour.

Developing a code of conduct does not have to be difficult. A number of initiatives provide free advice on the steps to take if a company decides to do so. Some of these steps include:

- Conducting an assessment of the company and business partners to determine the degree to which both adhere to national laws and are consistent with industry good practice;
- Establishing a company-wide working group to develop a draft code that expresses the company's commitment to prohibit forced labour and human trafficking;
- Organising internal consultations on the draft and subsequently consulting with appropriate external partners or stakeholders; and
- Redrafting and finalising the code, and communicating it to all relevant business partners, business associations, employers' organisations, the media, and other stakeholders, including workers and their representatives.



Booklet 3: Guiding Principles to Combat Forced Labour can be used to frame a discussion on drafting the forced labour provisions of the code. You may also wish to contact your local employers' organisation or the International Organisation of Employers for advice. Other initiatives like the UN Global Compact can also provide useful information about codes of conduct and CSR. Lastly, your government may be in a position to provide technical guidance and support to employers on effective policy measures to identify, prevent and mitigate risks of forced labour in operations, products or services.

Strengthening company policies

While company codes are increasingly common, their effectiveness in addressing forced labour can vary. To strengthen their codes, companies can consider a number of important steps:

- Codes of conduct often include a general prohibition of forced labour. They can be strengthened by integrating specific provisions on key risks, for example compulsory overtime, prison labour or passport retention.
- With a clear set of policy provisions, consider developing measurable benchmarks for each one. This will support code implementation and efforts to assess compliance.
- Consider integrating your code into contracts with suppliers and ensure its application to their sub-contractors and business partners, including service providers such as recruitment agencies that may introduce new forms of risk in the labour supply chain.
- Keep in mind the codes of sector, industry-based and multi-stakeholder initiatives.

Implementing enterprise policies

The development of a code of conduct or another form of labour rights policy is just the first step. Now comes the hard part: implementing this policy and ensuring that the company and its suppliers operate to the newly established standard.

Social auditing

One way that companies can implement their social policies is through enterprise-level assessments or social auditing. An audit can help the company identify its level of compliance with the new code, or put plainly: the audit will help the company determine whether there is forced labour in its own operations or in its supply chain. The more thorough an audit is, the better it will be in identifying situations of forced labour and trafficking.

A tool to help companies in implementing a forced labour audit is provided in **Booklet 4: A Checklist & Guidance for Assessing Compliance**. This tool identifies common practice in social auditing and recommends a balanced use of four key methods of assessment:

- On and off-site interviews with workers;
- A review of company documentation;
- Interviews with management personnel; and an
- Inspection of the workplace.

These methods can be used to greatest effect together. However, it is up to the company to decide how it wants to conduct the assessment. The company may decide to use other methods or hire a consultant (for example, a third-party social auditor). Either way, it is important that the audit is both effective and credible.

To strengthen your forced labour assessments, keep in mind the following key points:

- **Focus on key risks and vulnerable workers:** Audits often address a variety of issues. Consider implementing a focused forced labour audit, beginning with a pilot phase and integrating lessons learned as you scale up your engagement. If your risk is greatest among a particular category of vulnerable workers, for example international migrants, consider an audit focused on addressing this form of vulnerability.
- **Focus on at-risk regions:** ILO estimates identify the regional distribution

of forced labour around the world. This data can help you prioritize your audits in at-risk regions and in sourcing countries where forced labour is a significant problem.

Enterprise-level training

A company may also wish to provide training to managers, supervisors and workers on addressing forced labour. This would have the broad aim of ensuring more effective implementation of the code and more consistent levels of compliance across the company and its suppliers. In particular, the training would build the capacity of key personnel to identify and prevent forced labour, and take corrective action, where necessary.

Training at enterprise level starts from the principle that managers and owners cannot do it alone; if forced labour and human trafficking are to be effectively addressed, other members of the company, including workers at all levels, will need to be involved. A company may already be experienced in providing training to management, supervisory personnel and workers. Draw lessons from that experience, and keep in mind the following:

- **Audience:** Make sure the training is informative, practical and relevant to the needs and knowledge levels of your participants.
- **Trainer:** Conduct the training yourself or contract a local expert. Talk to your employers' organisation to draw from its expertise.
- **Location:** Consider the pros and cons of where the training is held, for example at the workplace or "off-site".
- **Timing:** Employees are busy. Schedule training at a time when they are best able to attend.
- **Methods:** Consider the use of training methods that ensure the active involvement of all participants.

Taking corrective action

Forced labour and human trafficking are crimes under international law and in most countries around the world. A suspected case of forced labour should be dealt with immediately, effectively and comprehensively.

Corrective action should provide for the full protection of the worker. Measures should support their rehabilitation, including their physical and mental well-being; their repatriation (if desired by the employee); and/or their reintegration into the labour market and community. Where possible, cooperation should be forged with public or non-governmental victim service providers with expertise in supporting victims of forced labour. You may also wish to review the UN

Guiding Principles on Business and Human Rights for more guidance on remediation.

Social reporting

Many companies will also want to communicate their activities to stakeholders and the wider public. One way for them to do so is through the Internet and on the company's website. Another way is to publish an annual social or sustainability report, which allows the company to "speak" directly to investors, buyers, consumers and broader civil society.

The **Global Reporting Initiative** is a multi-stakeholder initiative that helps companies with social reporting. It develops global and sector-specific guidelines on how to communicate on social, human rights and environmental performance, and involves companies, workers' organisations and other groups in the process. On forced labour, the GRI advises companies to provide "concise disclosure," suggesting that they:

- Indicate which operations are identified as having significant risk for incidents of forced labour; and
- Comment on measures taken to eliminate such abuses.

The **UN Global Compact** is another initiative to mention here. It requires participating companies to prepare an annual "Communication on Progress" that indicates the measures taken to implement the Compact's ten principles, including the elimination of forced and compulsory labour. This communication should include a description of practical activities and a measurement of the outcomes or expected outcomes of such activities. The Global Compact also advises companies on steps to take to combat forced labour. The box below identifies key recommendations for workplace and community-level action, developed in consultation with ILO and its constituents.

UN Global Compact: Strategies for Business to Combat Forced Labour

Extract from “The Labour Principles of the United Nations Global Compact: A Guide for Business” developed by the Global Compact Labour Working Group

In the workplace

- *Adhere to forced labour provisions of national laws and regulations, and where national law is insufficient, take account of international standards.*
- *Within company operations and dealings with other businesses, ensure that employment contracts are provided to all employees stating the terms and conditions of service, the voluntary nature of employment, the freedom to leave (including the appropriate procedures) and any penalties that may be associated with a departure or cessation of work.*
- *Institute policies and procedures to prohibit the requirement that workers lodge financial deposits with the company.*
- *Encourage managers to take action as appropriate.*
- *If forced labour is found within the company’s sphere of influence, provide for the removal of such workers from the workplace with adequate services. To the extent possible, assist with workers’ access to viable alternatives.*
- *Exercise due diligence in dealings with other businesses.*

In the community of operation

- *Companies may also wish to contribute, where possible, to broader community efforts to eliminate forced labour and help workers freed from forced labour to find freely chosen work.*
- *Work in partnership with other companies, sectoral associations and employers’ organisations to develop an industry-wide approach to address the issue, and build bridges with trade unions, law enforcement authorities, labour inspectorates and others.*
- *Establish or participate in a task force or committee on forced labour in your representative employers’ organisation at the local, state or national level.*
- *Support the development of a National Action Plan against forced labour as part of key policy and institutional mechanisms to combat forced labour at the national level.*
- *Within the company’s sphere of influence, participate in prevention and reintegration programmes for former victims of forced labour by providing skills development and job training opportunities.*
- *Where possible, participate in national and international programmes, including media campaigns, and coordinate with local and national authorities, trade unions and others.*

Working with others

The **GRI** and **UN Global Compact** are initiatives that bring together companies with other business and civil society organisations. Many companies seek to engage stakeholders in addressing forced labour and trafficking.

For example, a company may choose to participate in a collective policy statement by an employers' organisation or group of companies. In many cases, this is a group operating in the same sector or industry that jointly develops a code of conduct and related social auditing programme. This gives companies the opportunity to exchange information and develop good practice together. (See Section III below for more on the role of employers' organisations).

A company may also wish to work directly with workers' organisations or other civil society groups. This can take the form of negotiating an agreement or statement of principle, or involve joint engagement in the implementation of a company code of conduct. In recent years, a number of multinational companies have signed **International Framework Agreements** with global union federations. These agreements – which cover company operations and often apply to suppliers – deal with a variety of issues, including forced labour.

Companies are also involved in a growing number of multi-stakeholder initiatives. These organisations provide important forums for companies to engage civil society on policy development, social auditing and transparency measures. Multi-stakeholder initiatives are typically global in nature and operate pilot projects, training programmes and other activities around the world. Examples of such initiatives include the **ILO Fair Recruitment Initiative**, the UK-based **Ethical Trading Initiative**, and the **International Cocoa Initiative**.

Engagement with workers' organisations and multi-stakeholder initiatives can have a number of benefits. It can provide:

- A venue for sharing information and good practice between companies and stakeholders;
- An opportunity to learn from others about what works and what doesn't;
- A forum for collective training and capacity building; and
- A place to find solutions to some of the key technical challenges of tackling the complex issue of forced labour.

Working with unions and NGOs can also lead to good practice in remediation. Working with stakeholders can strengthen this engagement and provide companies with a network – alongside that offered by employers' organisation – to appeal to when looking for further guidance or assistance.

Companies can also look to the ILO for technical guidance and cooperation. For example, the organisation has established a **Helpdesk for Business on International Labour Standards** with the support of its tripartite constituents. This helpdesk operates a “one-stop shop” for company managers on how to better align business operations with international labour standards, including the prohibition of forced labour. See: www.ilo.org/business. The ILO’s **Special Action Programme to Combat Forced Labour** also offers a wealth of information, resources and technical guidance relevant to employers’ organisations and companies. You may also wish to contact the IOE or ILO’s Bureau for Employers’ Activities, which can also provide more information. See: www.ioe-emp.org and www.ilo.org/employers.

III. The role of employers’ organisations

Developing a strategy or action plan

A key first step for employers’ organisations to engage on forced labour is to develop a strategy or plan of action. This will help the organisation address forced labour in a systematic and sustainable way, and encourage strategic thinking on tackling its worst abuses. Starting with a strategy will also enable the organisation to have the greatest impact in action.

A strategy does not have to be a comprehensive and detailed plan. It should enable employers to identify an objective and a series of steps to achieve it. Developing a strategy will clarify some of the problems employers may face and provide an opportunity to think about the ways to resolve them. It will also establish a foundation for employers to influence public policy and can lead to the development of tools and resources for members. A strategy can also identify potential partnerships for employers to rely on. An important part of developing a strategy is realising that forced labour can best be addressed in partnership and not alone.

Identifying objectives

Most employers’ organisations are already well-versed in developing strategic objectives on social issues. The process used is similar to any that involves addressing a key policy matter. A group can be convened to identify key objectives. A draft strategy will result from this consultation and be shared with other representatives of the organisation and perhaps also members. Technical and operational matters will be addressed, including cost implications. The strategy will be finalised through further internal review and, possibly, through

consultation with external partners. For example, assistance may be requested from the IOE or ILO.

Getting buy-in

After setting the objective, it is important to consider getting “buy-in”. A strategy to address forced labour will require political support from the Executive Board in order to move forward. This may involve presenting the strategy to the Board and making revisions based on their comments; or it can actively involve them in the development of the strategy in the first place. This stage of the process may take a significant period of time; but it is an essential step whose importance should not be underestimated for the long term success of the strategy.

i *You may wish to contact the IOE or ILO’s Bureau for Employers’ Activities. Both can provide information about developing a strategy or action plan, and facilitate contact with other employers’ organisations. See: www.ioe-emp.org and www.ilo.org/employers.*

Process versus content

The above-mentioned steps represent the process of developing a strategy rather than its content. In general, a strategy’s content will have to be determined by the organisation itself. However, suggestions for action can revolve around three things: the expertise employers’ organisations have on social issues; the nature of the services they already provide; and the unique position employers have as key labour market actors. The two key areas for action are:

- Providing advice to members and raising awareness; and
- Engaging with others in taking action.

Providing advice and raising awareness

Providing advice and raising awareness is one of the key functions of employers’ organisations. On forced labour and human trafficking, this is no exception. These issues can be complex and confusing topics for employers, and they may be misunderstood or confused with other concepts. For example, a manager may simply not know what debt bondage or coercion refer to. For this reason, a key starting point for any employers’ organisation is to provide information and advice to its members.

Establishing a Focal Point

As part of the overall strategy, an employers' organisation might choose to designate a member of its staff as a Focal Point on forced labour. If possible, this person should have knowledge of the issue. However, this is not essential; designating a person as a Focal Point will allow them to develop their expertise over time. A Focal Point may dedicate his or her time solely to forced labour, or the topic may be part of a "portfolio" of other responsibilities. The key here is that your members have a single person within the organisation to whom they can go should they have inquiries or require assistance.

Providing information...

One of the duties of a Focal Point is to disseminate information to your members. At a basic level, enterprises will want to know about the law and relevant provisions in the labour and criminal codes. Providing copies of these or preparing a brief summary of legislation could be a useful starting point. More broadly, information can also be found in this handbook. Having copies available of **Booklet 2: Employers' Frequently Asked Questions** may also be useful. The benefit of this material is that it provides concise information in an "easy-to-read" format.

You may also want to consider providing information about international buyers and CSR. Forced labour – along with the other core labour standards of the ILO – is a central part of CSR programmes and the expectations of buyers are rapidly growing. Suppliers increasingly must be able to show that there is no evidence of forced labour within their own operations or those of their sub-contractors. Thus, an employers' organisation can play an important role in informing members about the changing attitudes and expectations of international buyers and consumer markets.

... and advice

Beyond providing information, you may also wish to offer your members advice on combating forced labour. This can be done person-to-person through your Focal Point; or your organisation can facilitate the exchange of ideas between members. The advice you provide may follow the suggestions outlined in the previous chapter. You may also want to review **Booklet 6: Tips for Taking Action**. Guidance on enterprise-level engagement, remediation and adopting a partnership approach may be particularly useful to your members.

Another way to share advice is to facilitate exchange between your members. Companies can learn a great deal from each other and your organisation may want to play a role in documenting and disseminating examples of good practice. This can be done on a website or in printed form; or to reach a wider

audience, “good practice” companies could also be asked to present their strategies and programmes at seminars or other events led by employers.

i *For examples of practical measures companies have taken to address forced labour, see **Booklet 7: Case Studies**. Keep in mind that the levels of awareness of your members may be quite diverse; in providing them with information and advice, be sure to have a clear understanding of their needs and levels of knowledge.*

Raising awareness

The level of awareness of your members and their capacity to address forced labour and trafficking is a significant factor in designing a strategy. If the issues are relatively new to them or little work has previously been done on the topics, you may need to start more-or-less “from scratch”. On the other hand, if forced labour and trafficking are frequently discussed in the media and your members already have a good level of understanding, it may be possible for a Focal Point to begin at a higher level of engagement.

In both cases, a structured way of sharing information and raising awareness is to arrange a national workshop or seminar on forced labour. This will encourage dialogue between your organisation and its members, and between the members themselves. An event of this kind can be organised with the support of other stakeholders and does not have to have high cost implications. However, it is important to have a clear set of objectives and priorities. The intended outcomes of the meeting should be considered beforehand to ensure a meaningful and successful event. The IOE can help you in this regard. An example of this kind of conference is presented in the following box.¹

¹ See www.ioe-emp.org for up-to-date information about employers’ initiatives on forced labour and related policy issues such as human rights.

Engaging Business: Implementing Respect for Human Rights

A Conference Sponsored by the US Council of International Business, the US Chamber of Commerce and the IOE

In May 2013, the Coca Cola Company hosted a conference on “Engaging Business: Implementing Respect for Human Rights” at its US headquarters in Atlanta. This meeting addressed the most challenging human rights issues facing employers, including human trafficking in global supply chains. It brought together over 100 representatives from employers’ organisations, companies, civil society, officials from the US Departments of Labour and State, and the ILO to share experiences and knowledge in a collaborative environment. The one-day meeting explored best practices and tools across company value chains with a view to promoting respect for human rights in line with the UN Guiding Principles on Business and Human Rights.

This meeting follows a long line of annual conferences hosted by Coca Cola with topics including forced labour and human trafficking. In 2008, it set out to discuss the challenges faced by business in addressing forced labour and describe the ways companies have responded to these challenges. Participants discussed the:

- *Role of government in tackling the problem;*
- *Need for clear guidance and examples of best practice;*
- *Need to prevent abusive practices among recruitment agencies;*
- *Need for strategic mapping of forced labour concerns by country and sector; and the*
- *Role of social auditing and development of credible monitoring systems.*

Finally, consider also developing a handbook on combating forced labour, taking the material presented here as a guide. Translate the relevant booklets and make sure to include national and sector-specific information that is relevant to your audience. Adapt the case studies provided in **Booklet 7**, or collect and prepare your own. However, make sure that you have a clear purpose and target audience in mind when you prepare the material, and make the handbook as practical as possible. Consider involving some of your members in the design phase of the project, and consult with the IOE and ILO on technical or political matters.

Engaging with others in taking action

In the previous section, it is recommended that employers' organisations play a central role in providing their members with information and advice on addressing forced labour and human trafficking. Employers, however, may wish to move beyond awareness raising and become more engaged in an operational manner.

In many cases, engagement of this kind will not be undertaken alone. It will be done in partnership with other organisations, for example with government, national or international NGOs, United Nations' agencies, the ILO, IOE and/or workers' organisations. Funding and management of the activities will likely be distributed across the partnership; however, there are certain activities that employers can lead because of their unique position as labour market actors.

Working with government

Government is a key player in the elimination of forced labour and trafficking in persons. A co-operative relationship with different government agencies will enable employers' organisations to lobby effectively on public policy matters such as labour and migration.

As a key first step, employers' organisations should be involved in all negotiations to ratify relevant ILO and UN Conventions, as well as Protocols. They should be engaged in the development of national legislation, and any changes or revisions to the labour and criminal codes. Engaging government in this way ensures that an employers' perspective is represented throughout negotiations. Employers' organisations can also engage government on labour inspection as it relates to forced labour. They may wish to lobby the Ministry of Labour on technical matters, for example to facilitate labour inspections and contribute to making them more effective and efficient. Sector-based associations may wish to do this in sectors where the risk of forced labour has been identified as particularly widespread.

Working with workers' organisation and others

In working with government, employers' organisations are also likely to work with workers' organisations in dialogue on the above-mentioned matters. Employers' and workers' organisations will play similar roles vis-à-vis government in representing their respective positions on public policy matters.

However, employers' organisations may also wish to engage workers outside the scope of legislative reform or policy development. For example, an employer may want to play a lead role in engaging workers at the sector level to develop a joint statement on eliminating forced labour. Sector-based associations show by example that effective co-operation can be built with global union federations to develop and implement programmes addressing these issues.²

Non-governmental organisations are also likely to be important here. These organisations are a broad and varied group, with some operating internationally and others operating nationally or even locally. Whatever the case, NGOs are increasingly important actors in multi-stakeholder initiatives and, as such, employers and their representatives may wish to engage with them more directly. In this case, it is advisable for employers to be clear about their objectives and responsibilities when building these alliances.

i *More information and guidance on the role that employers' organisations can play in working with government, workers' organisations and NGOs can be found on the IOE's website: www.ioe-emp.org.*

Taking action in prevention and protection

It has been noted that employers' organisations are well-placed to provide advice to members, play a role in raising awareness, and engage in dialogue with government and other actors. These are important activities. However, an employers' organisation may also wish to participate in programmes that take preventive and protective action against forced labour and trafficking. In this case, the organisation can be involved at several levels. It may wish to:

- Take the initiative itself;
- Join an initiative launched by others; or
- Support the efforts of a member association that is taking action.

An employers' organisation, notably one with expertise on the issue, may assist a constituent association with advice and information, and with access to

² The International Cocoa Initiative is a multi-stakeholder initiative that brings together companies and other business actors alongside workers' organisations and civil society to address forced and child labour in cocoa growing and processing. See: www.cocoainitiative.org.

networks, donors or potential partners. It may also wish to pass on information about good practice developed by other members that have faced similar problems.

By virtue of their role in representing business, employers' organisations can develop or participate in programmes that seek to rehabilitate and reintegrate former victims of forced labour and human trafficking. They can lead job placement or apprenticeship programmes, and provide vocational training and skills development opportunities. These programmes have both a preventive and protective function: they can provide income-generating opportunities to workers and help them reintegrate into their communities; but they can also act as a mechanism to prevent a worker from being re-trafficked or targeted again for forced labour exploitation.

Whatever the approach taken, it is necessary for the employers' organisation to consider the issues of money and staff time. Initiating or participating in a programme like this takes time and resources. There are three main sources of funding:

- Use of existing, internal funds;
- Reallocation of staff time; and
- Outside funding, notably from bilateral donors and UN agencies.

Consider using internal sources to fund preparatory activities, while looking for external donors for larger aspects of the work. However, be sure to consider developing a sustainable funding schedule so that the organisation does not become dependent on donors and risk having to close down good initiatives when donor engagement ends.

- 1 **Introduction & Overview**
- 2 **Employers' Frequently Asked Questions**
- 3 **Guiding Principles to Combat Forced Labour**
- 4 **A Checklist & Guidance for Assessing Compliance**
- 5 **A Guide for Taking Action**
- 6 **Tips for Taking Action**
- 7 **Case Studies**

Special Action Programme to Combat Forced Labour

Fundamental Principles and Rights at Work Branch

International Labour Office
Route des Morillons 4
CH-1211 Geneva 22
forcedlabour@ilo.org
www.ilo.org/forcedlabour

ISBN 9789221297994



9 789221 297994



International
Labour
Organization

Combating Forced Labour

6

Tips for Taking Action

A Handbook for Employers & Business
Special Action Programme to Combat Forced Labour

Combating Forced Labour A Handbook for Employers & Business

6 Tips for Taking Action

Copyright © International Labour Organization 2015
First published 2015

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Licensing), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: rights@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with a reproduction rights organization may make copies in accordance with the licences issued to them for this purpose. Visit www.ifrro.org to find the reproduction rights organization in your country.

ILO Cataloguing in Publication Data

Combating forced labour: a handbook for employers and business / International Labour Office.-- 2nd ed. - Geneva: ILO, 2015

ISBN: 9789221297994 (print); 9789221298007 (web pdf)

International Labour Office

forced labour / trafficking in persons / employers role

13.01.2

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and digital products can be obtained through major booksellers and digital distribution platforms, or ordered directly from ilo@turpin-distribution.com. For more information, visit our website: www.ilo.org/publns or contact ilopubs@ilo.org.

Acknowledgements

Special thanks are due to Philip Hunter (Verité) and, for graphic design, Julie Sobkowicz Brown for developing the revised handbook in close consultation with Houtan Homayounpour (SAP-FL), who coordinated and oversaw the project.

Printed in Switzerland

Note

This booklet presents a series of action guides which indicate some of the concrete and practical measures that business and employers' organisations can take in their efforts to combat forced labour and human trafficking. It complements **Booklet 5** of this handbook by providing specific tips for taking action in an accessible and easy-to-use format.

It is not expected that companies and employers' organisations will do everything that is suggested here. Every company is different and every organisation will develop its own approach to addressing the needs of its members. However, these tips are straightforward, and in most cases don't require substantial financial investment. What they do require is time, energy and a commitment to effective and sustainable engagement. It is to this end that the booklet provides a broad list of practical steps to action.

These guides address the following key topics: forced labour, prison labour, debt bondage and bonded labour, coercion in employment, forced overtime, and human trafficking. They can be used as reference material for human resources and CSR staff, or as promotional material, for example in the form of posters that can be displayed in an office or at the workplace. They can also be used to great effect by employers' organisations, for instance in training programmes or as reference guides for workshops and conferences.

Taking Action against Forced Labour

Tips for taking action

- Establish a clear and transparent company policy that sets out the measures to prevent forced labour. Clarify that this policy applies to all enterprises in the company's product and supply chains, and report on the implementation of this policy.
- Adopt recruitment and human resource practices (e.g. concerning wages, working hours and employment contracts) that minimise the risk of forced labour.
- Monitor your suppliers and sub-contractors, and provide training on forced labour for social auditors, compliance personnel, human resource managers and other supervisors.
- Work in partnership with other companies, sectoral associations and employers' organisations to develop an industry-wide approach to forced labour.
- Build bridges with other stakeholders, including workers' organisations, law enforcement authorities, labour inspectorates and non-governmental organisations.
- Take preventive measures against human trafficking and raise awareness about the vulnerabilities and hazards that can face irregular migrants.
- Initiate or participate in programmes that reintegrate former victims of forced labour and/or human trafficking by providing skills development and job training opportunities.

Benefits of action

- Clear policies and implementation programmes send a positive signal to buyers, investors, workers and other stakeholders. Reporting on how the policy is implemented raises brand image and company reputation.
- Industry-wide and multi-stakeholder action can be an effective way to pool collective resources, skills and knowledge to address forced labour in a broad and systemic way.

- Taking measures to prevent conditions that may lead to human trafficking and helping to reintegrate former victims of forced labour can have a positive effect on local and national labour markets.

Practical steps to action

- Convene a working group to develop company policy against forced labour, and include provisions on implementation and reporting. Establish a bipartite enterprise-level committee that has responsibility for the issue.
- Establish an enterprise and/or workplace level complaints mechanism that is anonymous, confidential and easily accessible to workers.
- Consult with your employers' organisation and members of your industry on good practice in monitoring suppliers and sub-contractors. Ask your government to provide technical guidance or support, and convene a working group to develop effective policies and procedures.
- Establish and participate in a task force or committee on forced labour in your representative employers' organisation at local, state or national level.
- Support the development of an employers' National Action Plan against forced labour as part of key policy and institutional mechanisms to combat forced labour at national level including alignment with follow-up action to implement ILO Protocol of 2014 to the Forced Labour Convention.

Taking action against abusive prison labour

Tips for taking action

- If you directly employ prison workers or sub-contract to a prison, make sure that work is carried out voluntarily. Prisoners should not be forced to work.
- Ensure that prisoners have provided their formal, preferably written, consent to work.
- Provide prison workers with wages, social security and occupational health and safety standards that are comparable to those enjoyed by regular workers.
- Make only legal deductions from prisoners' wages, for example for food and lodging.

Benefits of action

- Some governments may restrict the importing of goods produced using prison labour. Avoiding the use of prison labour and adopting good practice when using it may reduce the risk of facing import bans.
- Taking actions like these will minimize the risk of legal action and help you avoid damages to your company reputation that can result from association with abusive prison labour.

Practical steps to action

- Create a standardised written consent form for prison workers to sign when they agree to work. On this form, provide information about wages and working conditions so that workers can give their free and informed consent to work.
- Provide workers with a clear and detailed wage slip that shows the hours worked, wages earned and any legal deductions made for food and lodging.
- Determine what wage levels are for free workers in the relevant industry or occupational group, and provide comparable wages to prison workers.
- Meet with prison authorities, including prison inspectors, to discuss employment policies and practices. If possible, speak with prison workers about working conditions in order to determine whether they have freely given their consent to work.

Taking action against debt bondage & bonded labour

Tips for taking action

- Adopt human resource policies that prevent the risk of debt bondage for workers.
- Do not require new employees to lodge a deposit when they begin employment.
- Be cautious about providing wage advances and loans to employees. If you do, make sure they do not put workers in a situation where they feel forced to work to repay the loan.
- Know national law and practice. If you make deductions from workers' wages, make sure that they stay within legal limits.
- Make sure that your contracts give clear information about the terms and conditions of employment, and that they are in language that workers can understand.
- If you recruit workers internationally and use a private employment agency to do so, make sure that workers are not charged excessive recruitment fees to get a job.

Benefits of action

- Adopting good practices like these will help prevent the risk of your company being associated with abuses such as debt bondage.
- Taking measures to carefully select and monitor the private employment agencies you use will reduce the risk that workers in your company will face unethical recruitment practices and suffer conditions akin to forced labour.

Practical steps to action

- To prevent the risk that employees become indebted and feel forced to work, pay them at regular intervals, on time and directly, or agree with them to pay their wages into a bank account in their name.
- Create a standardised wage slip and payment system that provides clear information about hours worked, wage rates, and legal deductions (if applicable) to prevent a miscalculation of wages that may put workers and your business at risk.
- Make sure that deductions from wages do not push workers' take-home pay below the minimum wage.
- Interview new employees, particularly migrant workers, and ask them whether they paid a recruitment fee to get the job. Where relevant, check directly with the recruitment agency as well.
- If you provide wage advances or loans to employees, make sure they can pay them back in a reasonable amount of time. (e.g. provide smaller loans, charge lower interest rates or use shorter instalment periods).
- Make sure your contracts of employment include provisions on wages, wage deductions, conditions for terminating employment and other issues related to preventing debt bondage.

Taking action against coercion in employment*

Tips for taking action

- Establish a strict policy on preventing coercion and train all relevant personnel on their respective roles and responsibilities under the policy.
- Adopt recruitment and human resource practices that prevent conditions that may result in coercion.
- Take appropriate measures to minimise the risk of coercion associated with wage payments. Avoid non-payment or delayed payment of wages that may have the effect of binding workers to employment.
- Make sure that all employees are free to terminate employment at any time given a reasonable period of notice, in accordance with national law or collective agreement.
- Do not confiscate or force workers to hand over personal documents. However, if asked, take measures to provide them with a safe and secure place to deposit their valuables.
- Do not use abusive practices or threats to coerce migrant workers to work, for example threats of denunciation to authorities.
- Take a “zero tolerance” approach to physical violence; imprisonment or confinement at the workplace or in dormitories; sexual violence; deprivation of food, shelter or other necessities; and verbal abuse and threats.

Benefits of action

- These measures will help to ensure that employees work in freedom. This is a fundamental human right protected under international law and the national law of most countries.
- Having a clear and effective policy on preventing coercion, and training managers, supervisors and other relevant personnel sends a positive

* Coercion in employment refers to forms of deception or compulsion in the workplace that can result in forced labour under specific circumstances, for example withholding or not paying wages or confiscating identity documents with the aim of binding the worker to employment.

signal to buyers, investors, workers and other stakeholders.

- Allegations of forced labour or coercion in the production of goods or services may result in some countries preventing them from being imported. Taking preventive measures as a company or industry can help ensure that your goods or services have access to international markets.

Practical steps to action

- Establish a committee to draft a company policy on preventing coercion and consult with representatives of your employer organisation for advice and technical assistance.
- Hold periodic training for managers, supervisors and workers on good and bad practices relating to coercion.
- If requested by employees (e.g. for security or other reasons), provide a safe place to lodge personal documents, for example a safe or secure cabinet. Make sure your employees know where this is and that they can access it freely at any time upon request. Provide workers with photocopies of their documents, and nominate a “contact” person in your management or supervisory team.
- If you provide loans or advances to employees, make sure that these do not place workers in an “at risk” situation: provide smaller loans, use shorter instalment periods and lower your interest rates.
- Do not ask employees to lodge deposits when they take up employment.
- Prepare written contracts of employment for all employees, in language that they can understand, specifying their rights with regard to payment of wages, overtime and other issues related to preventing forced labour.

Taking action to prevent forced overtime

Tips for taking action

- Know and respect the law and its provisions on working hours and overtime, and if applicable abide by the provisions of collective bargaining agreements in your company or industry.
- Establish a company policy on overtime that clearly states it will only be undertaken voluntarily. Train human resource personnel and supervisors on this policy.
- Negotiate overtime with your employees and do not make it compulsory. Get their consent to work overtime hours, and stay within the limits and conditions of the law.
- Do not threaten employees who choose not to work overtime.
- If periodic use of overtime is required to meet production deadlines, plan ahead and speak with workers beforehand.
- Address the root causes that can lead to persistent use of overtime; for example, consult with buyers on questions related to production requirements and deadlines.

Benefits of action

- Negotiating overtime and making sure that you have the consent of employees helps to guarantee that overtime is always undertaken voluntarily.
- Having a company-wide policy on working hours and overtime, and training the relevant supervisory and managerial staff, reduces the potential for abuse.
- Consulting with buyers can help raise awareness, strengthen buyer-supplier relationships, and encourage more sustainable trading relations that, in turn, can help prevent the conditions that can lead to abuse in the workplace.
- Good practices like these help to prevent reputational risk for your company and industry.

Practical steps to action

- Establish a joint labour-management committee (including trade union representatives in workplaces where unions exist) and speak with employees about overtime. Notify and agree with them beforehand that overtime may be necessary during peak periods of production.
- Address the issue of overtime with new employees and make sure they understand the law and relevant company policies.
- Make information about overtime available to human resource personnel, supervisory staff and workers clarifying what is and is not allowed under the law. Distribute copies of company policies and make sure everyone concerned understands the relevant provisions. Identify and reward good practice.
- Hold periodic consultations with buyers to discuss lead times and other production requirements that may have consequences for working hours and lead to abusive situations involving forced overtime.

Taking action to address human trafficking

Tips for taking action

- Take measures to protect migrant workers against the conditions that make them more vulnerable to situations of forced labour and trafficking.
- Do not confiscate or force workers to hand over personal documents. However, if requested by workers (e.g. for security reasons), develop policies and procedures for holding such documents that prevent the possibility of abuse.
- If you use a private employment agency to recruit workers, make sure this agency operates on a high standard of ethics. Use the services of agencies that do not charge fees to workers.
- Do not threaten to report irregular migrant workers to the authorities.
- If you provide accommodation to your employees, make sure that their movement is not restricted outside working hours.
- If your company contracts work to a recruitment agency, agree with the agency that it is responsible for complying with the law and relevant collective agreements.
- Within your sphere of influence, participate in prevention and reintegration programmes for former victims of trafficking by providing skills development and job training opportunities.
- Where possible, participate in national and international anti-trafficking programmes, including media campaigns, and co-ordinate with local and national authorities, workers' organisations and other stakeholders.

Benefits of action

- Monitoring the recruitment practices of employment agencies can help identify the most reputable and ethical organisations. This in turn can minimise the risk posed to your company of association with abuses of human trafficking.

- Establishing good policy and practice with regard to document retention and recruitment fees helps to ensure that workers are not placed in vulnerable situations that can amount to abuse and coercion.
- Working in partnership with government, law enforcement and other stakeholders can ensure that anti-trafficking measures are more effective and sustainable.

Practical steps to action

- Talk with new employees who were recruited through employment agencies to determine under what conditions they were recruited and whether they were required to pay a recruitment fee.
- If requested (e.g. for security reasons), provide your employees with a safe place to lodge personal documents, for example a locked safe or secure cabinet. Make sure they can access these documents at any time upon request, and nominate a “contact” person in your supervisory team.
- Provide workers with photocopies of their documents, and communicate all such measures to workers.
- Train managers, human resource personnel, supervisory staff, compliance officers, and workers on how to identify and prevent human trafficking. Discuss good and bad practices related to worker identity documents, migrant workers, payment of wages and other issues.
- Before contracting a private recruitment agency, learn more about it and meet with representatives to discuss policies concerning recruitment fees and other employment practices.
- Talk to other companies in your industry, create networks, and use those networks to exchange information and ideas for action. Take advantage of the services provided by your employer organisation and the **International Organisation of Employers**.
- Provide clear and concise contracts of employment that are written in language that workers understand and clearly state the conditions of employment regarding wage payment, overtime and retention of identity documents.



- 1 Introduction & Overview
- 2 Employers' Frequently Asked Questions
- 3 Guiding Principles to Combat Forced Labour
- 4 A Checklist & Guidance for Assessing Compliance
- 5 A Guide for Taking Action
- 6 **Tips for Taking Action**
- 7 Case Studies

Special Action Programme to Combat Forced Labour

Fundamental Principles and Rights at Work Branch

International Labour Office
Route des Morillons 4
CH-1211 Geneva 22
forcedlabour@ilo.org
www.ilo.org/forcedlabour





International
Labour
Organization

Combating Forced Labour

7

Case Studies

A Handbook for Employers & Business
Special Action Programme to Combat Forced Labour

Combating Forced Labour
A Handbook for Employers & Business

7
Case Studies

Copyright © International Labour Organization 2015
First published 2015

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Licensing), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: rights@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with a reproduction rights organization may make copies in accordance with the licences issued to them for this purpose. Visit www.ifrro.org to find the reproduction rights organization in your country.

ILO Cataloguing in Publication Data

Combating forced labour: a handbook for employers and business / International Labour Office.-- 2nd ed. - Geneva: ILO, 2015

ISBN: 9789221297994 (print); 9789221298007 (web pdf)

International Labour Office

forced labour / trafficking in persons / employers role

13.01.2

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and digital products can be obtained through major booksellers and digital distribution platforms, or ordered directly from ilo@turpin-distribution.com. For more information, visit our website: www.ilo.org/publns or contact ilopubs@ilo.org.

Acknowledgements

Special thanks are due to Philip Hunter (Verité) and, for graphic design, Julie Sobkowicz Brown for developing the revised handbook in close consultation with Houtan Homayounpour (SAP-FL), who coordinated and oversaw the project.

Printed in Switzerland

Case Study # 1

Country: Brazil
Commodity: Pig Iron
Industry: Automobile Manufacturing

The Issue

It is estimated that around 25,000 Brazilian workers are in conditions analogous to slavery in Brazil today. Most are trapped in situations of debt bondage in camps of the Amazon region where they work and forced to pay for transportation, food, lodging, and tools. Although the workers will generally enter into employment voluntarily, it is the role of the 'gatos' (recruitment agents) to persuade individuals to join the camps through promises of good pay, good working conditions and benefits. Once employed, the individuals often discover that they are not free to leave because of the debts they incurred and the threat of physical violence.

Individuals forced to work in such circumstances are denied the possibility of leaving their employer, as their debts increase and armed guards patrol the working camps. Upon arrival, workers have their work registration card confiscated. This prevents them from accessing their rights to protection and benefits, which are otherwise available in the formal sector. Workers work very long hours and often remain unpaid for long periods; testimonies note that workers are reluctant to demand back-payment for fear of not receiving any income at all.

In 2006, several major news stories focused on the use of forced labour in the supply chains of major vehicle manufacturers in Europe, Japan and the US. In Brazil, forced labour occurred in the 'charcoal camps' which provide charcoal to major pig iron exporters. Although this represents only a very small percentage of the activities that use forced labour in Brazil, about 90 per cent of the pig iron produced from this charcoal is exported to the United States.

In recent years, the Government of Brazil has taken a number of important steps to combat forced labour, many of these in partnership with the business community. In 1995, it set up a Special Mobile Inspection Group (Grupo Especial de Fiscalização Móvel) to investigate and raid camps accused of using forced labour. The Government also maintains a "dirty list" registry of the properties and companies found to have used slave labour. As of mid-2008, it contained over 200 persons and entities, mainly in cattle-raising, followed by charcoal and sugar.

The Brazilian business sector launched in 2005 a National Pact to Eradicate Slave Labour, together with civil society groups. The Pact brought together more than 400 signatories, including Brazilian and multinational companies, trade unions and civil society organisations. By signing the Pact, companies agreed to sever their links with suppliers caught using slave labour. Apart from raising awareness, under a follow-up process, a “Social Observatory Institute” monitors the performance of signatories to the Pact and documents good practice.

Business Responses to the Issue

Collective action by Brazilian companies

The Brazilian industry group for pig iron manufacturers works to eradicate forced labour in the supply chain. From 2004, the Citizens Charcoal Institute (CCI) has been sending labour inspectors to charcoal camps to assess compliance and to circulate a code of conduct for the industry, which was developed in 1999. When faced with non-compliance, suppliers are decertified, and members of the industry group subsequently cease to do business with them. The CCI also produces a ‘dirty list’ to supplement the work carried out by the Government. Additionally, in August 2004, 14 pig iron companies in Brazil signed a joint commitment to end slave labour in the production of charcoal.

Individual action by Brazilian companies

In September 2007, one leading iron ore producer stated it would no longer sell iron to pig iron companies purchasing charcoal from camps using slave labour. It required its clients to prove they were not directly or indirectly involved in using forced labour and conducted a private audit at ten of them to this effect. As a result of the audit, the company suspended its supply to seven clients, citing forced labour and environmental problems as serious infractions. Four of these clients subsequently had contracts unilaterally terminated by the company. However, in undertaking this action, the company had to proceed with caution in order not to fall foul of anti-trust regulators since the company is the only iron ore producer in that region of Brazil.

One pig iron company in Brazil made the direct link between forced labour and deforestation in the Amazon. It stated that pig iron producers were buying charcoal from the illegal camps because it would otherwise take many decades to grow the trees necessary to produce the same amount of charcoal using the wood burning technique. This company instead uses its own employees and has its own eucalyptus forest to produce the wood required.

Collective action by US companies

On 4 December 2006, a press release announced that five major automobile manufacturing companies were working together to offer collective training for suppliers on how to avoid purchasing supplies produced using forced labour. This initiative was first coordinated by the Automotive Industry Action Group (AIAG) from October 2005 and then by Business for Social Responsibility from December 2006. Initial projects from the initiative include joint statements to create a shared industry voice on various issues relating to working conditions, including forced labour.

Individual action by US companies

In response to a Bloomberg cover story in late 2006,¹ and to other press reports on the use of slave labour in the US car manufacturing industry, various companies adopted a number of measures, including:

- Immediately ceasing to purchase pig iron traced to slave labour in Brazil; and
- Requesting suppliers to certify that their pig iron was produced without slave labour, and ceasing to do business with suppliers who fail to do so.

Initial Lessons from the Issue

It is evident that there is room for greater cooperation on this issue in order to move towards the complete eradication of forced labour in the supply chain of major car manufacturers. There has already been progress in terms of the willingness of companies to work together on this, as seen in both the CCI venture and the AIAG initiative. Additionally, the steps taken by one company to stop supplying iron ore to pig iron producers that use charcoal produced with slave labour is a step in the right direction. However, there could be greater cooperation at the governmental level to ensure that steps taken to block or boycott particular suppliers do not fall foul of anti-trust provisions. Moreover, further government support could be provided to US companies wishing to break the cycle which perpetuates forced labour in their supply chain.

It is also worth noting that the large majority of companies involved in this debate are significant actors in the industry. For smaller companies, the resources to act on these issues are more limited. In such instances, a pro-active position taken by an industry body can have particularly significant results.

The issue of available timber is an important one and should not be

¹ Michael Smith and David Voreacos, "The secret world of modern slavery," Bloomberg Markets, December 2006.

underestimated. A move from charcoal to coke-based pig iron production may be helpful. However, this would require financial assistance for the pig iron producers due to the increased costs this would create.

In terms of auditing and monitoring the charcoal camps, the work carried out by the Brazilian government's Special Mobile Inspection Group, assisted by the mobile courts which can ensure speedy judgments and liberation of workers, is to be encouraged. There seems to be space for a collaborative effort between this group, the auditors of the ICC, and US and Brazilian business involved in steel production.

It is unclear which entities are running the charcoal camps where forced labour is being used. However, there seems to be significant interconnectivity between the camps and pig iron producers. On occasions where the camps have been closed down by mobile inspectors, pig iron producers (i.e. purchasers of the camps' charcoal) have been required to pay back wages to individual workers. Greater clarity in terms of the bargaining power of pig iron producers would be welcomed.



Case Study # 2

Country: China
Industry: Electronics

The Issue

This case study focuses on allegations of forced labour in factories in China and on the actions taken in response by one major US electronics company. The factories in question were owned by two different companies and both were assembling separate products for the US multinational. One factory in particular attracted greater criticism in the media.

The descriptions of working conditions ranged from workers who were forced to work very long hours, live in cramped and insufficient accommodation, forced to pay for accommodation and food, and prevented from leaving the facility. In addition, there were allegations of child labour in the manufacture of some products, and use of disciplinary actions which involved workers being made to stand still for long periods. The allegations first appeared in a report which was not available on the Internet but which included some pictures of factory conditions that were later reproduced in the international press. The story was first published by a UK paper and then, shortly afterwards, by a business journal in China.

Business Responses to the Issue

The US company in question responded with a statement within 3 days of the abovementioned allegations. It stated that the company was taking steps to investigate the situation and that it took the allegations seriously.

The US company took steps to investigate the allegations through extensive factory visits and worker interviews. It published a report on its website within six weeks of the initial media coverage. In the report, the company states that an audit team sent to the factory was made up of staff from its human resources, operations and legal departments, and that the evidence gathered was cross-checked against many sources of information from employees, management and staff records. It also points out that, in auditing for forced labour, security records were checked to look for false identification papers. The report goes on to summarize findings related to the working and living environment, compensation, overtime, and worker treatment.

Although the company report states that there was no evidence of forced labour

or child labour, it made public the observation that the company's own weekly limit on hours worked, as stated in the company's code of conduct, was being exceeded. The company stated that, as a result of its findings, the supplier was changing its policy to ensure compliance with the weekly overtime limits. In addition, the company noted that improvements to the sleeping facilities were required but that the supplier was in the process of acquiring more land to build further facilities.

The supplier in question was quoted as having opened the factory to its customer and provided access for the audits to take place. It is noteworthy that this supplier is a significant company in the industry and has grown rapidly in recent years. The supplier was quoted as being satisfied that the US company's report cleared up the allegations about working conditions in their factory. It is also quoted as saying that the incident resulted in the company reflecting on being more open about its business than it had previously been.

It is interesting to note that the Business and Human Rights Resource Centre, which has a policy of requesting responses from companies cited in human rights abuse allegations, records this particular case in its summary as having been resolved prior to the company responding. It is the only case which appears with this indicator.

Initial Lessons from the Issue

The US company in question was using around 15% of the total workers employed by the factory in China. The same factory was being used by other major high street electronics brands although there is little mention of these companies' reactions to the story. Nevertheless, this percentage share did not limit the access the company had in producing its audit findings.

The story also highlighted the Electronics Industry Code of Conduct, a sector-specific tool and initiative which brings together over 40 (as of September 2008) companies working in the electronics industry. This initiative is aimed at improving working conditions in the industry supply chain. At the time the story was published, the China-based supplier was a member of the EICC but the US company was not. However, in its report detailing the audit and its findings, the latter indicated that it would be joining the EICC.

Shortly after the publication of the company report, a related human rights issue was highlighted by the international media, involving the journalists who had initially published the story in the British and Chinese press. A wholly-owned subsidiary of the subcontractor based in China took legal action on grounds of defamation against the journalists in their own personal capacity. The lawsuit demanded a large sum of money and once the court accepted the case, the journalists' assets were frozen. The paper in question stood by

its journalists and criticised the action being brought. There followed requests from press freedom NGOs to both the supplier and to the US company asking them to act so that the case could be dropped. The US company said that it was working behind the scenes to help solve the issue. The case was dropped shortly thereafter.

This case demonstrates that by acting quickly and being thorough in their response, the company quelled concern about the particular working conditions involved in the manufacture of key products. In addition, when the story took a different turn and moved into the sensitive political field of press freedom, it seems that the company was prepared to remain involved. Nevertheless, the case highlights the difficulties in ensuring compliance with company codes in situations where there is extensive outsourcing. The US company's decision to join the EICC demonstrates again the added-value of working in cooperation with other companies facing similar difficulties which may be seen as endemic to the industry.





Case Study # 3

Country: Jordan
Industry: Garments & Textiles

The Issue

Since 2000, Jordan has benefited from a preferential trade agreement with the US through the Jordan-US Free Trade Agreement (FTA). This agreement is designed to ensure that both countries uphold ILO standards, including the prohibition of forced labour. As a result, when a full and frank investigation was carried out into working conditions in Jordanian factories, both the US and Jordanian governments were implicated, along with companies based in both countries.

In May 2006, the US-based National Labour Committee (NLC) published a highly critical report which examined working conditions in textile factories across Jordan that were producing goods for US-based companies.² The study looked at factories based in Qualified Industrial Zones (QIZ) which benefit from preferential access to the US market.

As of July 2006, there were 13 QIZs in Jordan which contained over 110 companies in total, employing over 54,000 workers. The American Chamber of Commerce in Jordan states that these QIZ factories are made up of 66% foreign workers, known as 'guest workers', who are brought in from China, Bangladesh, Sri Lanka and India. Although the QIZs were designed to encourage foreign direct investment and provide employment to the local population, the factories involved rely on a predominantly migrant workforce.

The NLC report sets out a thorough investigation of harsh working conditions, including physical and sexual abuse, the lack of remuneration, the lack of access to adequate food and water, and poor living conditions. Individual guest workers were required to pay large sums of money in their home country to get a job, but in Jordan they were earning a fraction of what they had been promised, with some not seeing wages for long periods of time. In addition, upon arrival at the factories, workers' passports were reportedly confiscated and should there be complaints regarding lack of wages, there were incidences of workers being forcibly removed back to their country of origin to face the debt they could not repay. Having no access to their passports and no means of complaining without risk of removal, imprisonment, beatings or being denied

² National Labour Committee, U.S.-Jordan Free Trade Agreement Descends into Human Trafficking & Involuntary Servitude, New York, 2006.

food and drink, workers were effectively trapped both in Jordan and by the mounting debt incurring large sums of interest in their home country.

Furthermore, according to Jordanian law, non-Jordanian citizens, even those with a work permit to work in the QIZs, are prohibited from joining a trade union and therefore have no recourse to their assistance.

Shortly after the issues set out above were made public, the Jordanian government responded and the Ministry of Labour inspection teams, accompanied by representatives of the embassies of India, China and Sri Lanka, visited four of the QIZs to investigate the allegations. A number of penalties were issued and some establishments were closed.

Business Responses to the Issue

Collective action

On 21 September 2006 the American Federation of Labour and Congress of Industrial Organisations (AFL-CIO) together with the National Textile Association (NTA) in the US filed a joint complaint with the US government requesting that it invoke the dispute settlement procedures of the FTA as a result of Jordan's "gross" violations of workers' rights. The complaint alleged that Jordan was in violation of its commitment to respect the core labour standards of the ILO and to effectively enforce Jordanian labour law. This was the first time business organisations filed a workers' rights case under a trade agreement.

Individual responses

In direct response to the NLC report, companies responded as follows:

One company stated that it does not work directly with the factories, but with vendors and that it expects all vendors and factories to follow local laws and their own standards. The company clarified that – of the five factories listed – it only works with one and it will follow up with the vendor concerned to monitor and work closely with them. The company stated that it is committed to taking corrective action.

Another apparel company stated that one of the factories in question had produced a valid certification from a recognized program. Following the report from the NLC, the company followed up with its own investigation and found some of the issues contained in the report to be present. The company noted that it attempted to encourage corrective action at the factory but also notes that its orders represent less than 1% of the factory's production capacity. The company concluded that: 'consequently we do not have any leverage or bargaining power with the factory'. As a result of the findings and the lack

of cooperation from the factory, the company made the decision to not place further orders with them.

The response from a distribution company highlights a September 2006 onsite audit by its own internal auditors, which was followed up by a second visit in October 2006 where improvements were noted. The company observed that interviews with workers supported the evidence of improvement. The company also expressed its concern that, should it simply discontinue business with a particular factory, it would lose influence to negotiate for improvements in practice. However, the company does specify that where 'factory violations are egregious, such as prison labour, [it] immediately terminates [its] business with the supplier factory.' The company finally stated that it is working collectively with the Jordanian government, other retailers and the ILO to address the issues. Government, ILO and corporate engagement in the garment sector led to the establishment of Better Work Jordan in 2008,³ a programme that aims to improve compliance with labour standards, including the elimination of forced labour, in Jordan's apparel industry through workplace assessments, customized advisory services and training.

Initial Lessons from the Issue

It is clear that, although the main parties implicated in this case were the Jordan and US governments, the brands involved were also seen to be responsible for the conditions in the factories supplying them. The overall purpose behind the FTA with Jordan was to promote employment for domestic workers and attract foreign direct investment. However, it became apparent that the large migrant population brought into Jordan to fill the positions in the factories suffered most from the situation.

It seems that there is potential for companies to work collectively with the governments in question, the supplier factories and the ILO to aim at improving the situation. Companies should also look to working together with other companies that are supplied by the same factory. However, this does raise an issue for smaller suppliers attempting to tackle such problems since, if they are part of a significant supply chain, their influence may be limited. In such cases, a proactive industry body working on these issues with a large number of companies of different sizes can have a positive and welcome effect.

Finally, it is evident from the work of the NLC and the subsequent steps taken by companies that there is wide discrepancy in the effectiveness of audit procedures, in particular in recognizing and documenting instances of forced labour. For example, instances were reported of factory managers briefing workers on what they ought to say in response to questions posed by auditors.

³ <http://betterwork.org/jordan/>



Case Study # 4

Country: USA
Commodity: Raw Food Stuffs
Industry: Agriculture & Food

The Issue

The majority of individual workers on US farms who suffer from situations of forced labour are migrant workers from Mexico, Guatemala and Haiti. These individuals are sometimes trafficked directly from their country of origin or, increasingly, targeted upon arrival in the United States.

A number of cases have been documented by the Coalition of Immokalee Workers (CIW), an organisation established in 1993 by farm workers based in Florida. The CIW describes itself as a community-based worker organisation with members made up of Latino, Haitian, and Mayan Indian immigrants working in low-wage jobs in Florida.

According to the CIW, there is forced labour in practice on Florida farms which results from debt bondage whereby workers are required to work long hours and then see deductions from their wages for transport, tools and equipment. In several instances, these workers do not see the pay they are owed over long periods. They are kept at camps, live in poor conditions and often kept under surveillance by armed guards. The CIW has been instrumental in bringing about the prosecution of forced labour cases by working undercover with workers on the farms.

Several stories have been reported relating to poor working conditions and on 19 December 2007 three migrant workers who were working as fruit pickers escaped from their employer and relayed the conditions they had been subjected to. This included being forced into debt, beaten and being forced to pay for water to take a shower.

The CIW has focussed on a central issue of very low wages being paid to these workers, wages which have only marginally improved since the 1980s. They began a specific campaign targeting the tomato growers responsible for running the farms and then turned their attention to globally recognised international food brands.

Business Responses to the Issue

In response to the campaigns spearheaded by CIW, international food brands have been involved in tackling the issue of forced labour in their supply chains.

In March 2005, one of these brands agreed to pay one penny more per pound of tomatoes it buys from the Florida farms. This was coupled with the condition that the company would henceforth only work with suppliers who could guarantee the money was reaching the individual workers directly. Another brand reached a similar agreement with CIW in April 2007, which included a commitment to work on a code of conduct for the tomato growers and to increase the involvement of farm workers in monitoring compliance with the code. To date, similar agreements have been reached with nine other US-based and international companies.

CIW has maintained its position of targeting fast food giants rather than growers, but in May 2008, it put an end to its campaign against one of the brands after the announcement that the company would work together with CIW to improve working conditions for farm workers.

Fast food industry leaders agreed to take part in the increased wage programme and, together with CIW, called for industry-wide participation. In order to encourage growers' involvement, one brand committed to fund the incremental payroll taxes and administrative costs that would be incurred as a result of the increase in wages. The company and CIW also adopted zero tolerance guidelines which prescribe that certain unlawful practices of growers require their immediate termination from the supply chain. The company also committed to ensure farm workers' participation in the monitoring of growers' compliance with its vendor code of conduct.

Initial Lessons from the Issue

This case study sits in the wider context of responsible business practice relating to migrant workers. A study published in March 2007 by the Southern Poverty Law Center (SPLC)⁴ notes that individuals coming into the United States as migrant workers on the guest worker programme are at risk of abuse. As the report states: “[b]ound to a single employer and without access to legal resources, guest workers are:

- Routinely cheated out of wages;
- Forced to mortgage their futures to obtain low-wage, temporary jobs;

⁴ *Close to Slavery: Guestworker Programs in the United States*, March 2007. Available at: <http://www.splcenter.org>.

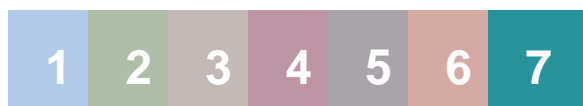
- Held virtually captive by employers or labour brokers who seize their documents;
- Forced to live in squalid conditions; and
- Denied medical benefits for on-the-job injuries.”

The CIW campaign and subsequent media coverage of the issue have focused principally on the poor wages paid to workers rather than on their working conditions amounting to forced labour. However, even if more companies were to pay an extra penny per pound to workers, the conditions for forced labour may well still exist and need to be addressed.

The danger here is that companies involved in the debate focus on the extra penny per pound campaign to the detriment of solving the more widespread problem set out in the SPLC report, which relates to instances of forced labour.

Additionally, there is scope here for questions to be asked about the private employment agencies which are responsible for recruiting workers in their home countries, who then are employed in the US agricultural sector. At present, this industry is highly unregulated to the extent that workers arrive in the US bound by high debts with exorbitant interest rates. Although US local law includes provisions requiring that the worker’s travel and visa costs are repaid, in practice full refunds are rare.

It is hoped that the companies publicly targeted through the work of the CIW are also able to examine the agencies, which provide workers to their tomato growers. It is to be hoped that a collaborative effort from several companies, industry bodies, relevant governments and the ILO could address the issue proactively. The pioneering work commenced by the signing and promotion of the Athens Ethical Principles is a helpful reference in this context.



Case Study # 5

Region: Middle East & Gulf
Industry: Food & Drink

The Issue

In early 2009, one of the world's largest beverage companies began auditing its suppliers in the Middle East and Gulf Region. This included 19 independent bottling plants and 2 owned and operated by the company itself. The countries covered included Bahrain, Kuwait, Oman, Qatar, United Arab Emirates and Yemen. In the first several assessments by third party auditors, it became immediately clear that almost all of the facilities in the region were withholding the passports of migrant workers. When auditors asked why this was taking place, facility managers typically said that this was either required by law, a customary practice or a requirement of insurance companies to safeguard against cash theft.

Although withholding personal documents is not automatically an indicator of forced labour or coercion in the workplace, nevertheless the practice can be considered an indication of abuse if workers cannot access their passports at their own discretion or if they feel unable to leave their jobs without losing the document. Withholding the passports of migrant workers can:

- Limit their freedom of movement;
- Indicate a lack of consent to employment;
- Inhibit workers' ability to obtain another job should they want to do so; and
- In some cases, even limit their access to social or health care services to which they might be entitled.

Business Responses to the Issue

Individual engagement

The company's response to these findings was immediate. It commissioned a third party review of national laws and regulations of the countries concerned, and followed up with a tour of the region and its suppliers by senior management from regional and global headquarters. On this basis, the Company developed guidance and implementation guidelines on the issue of passport retention, supplementing its existing supply chain compliance resources. This guidance

was developed and validated in a two stage process and subsequently shared with supplier facilities, supported by face-to-face training, ongoing written communication and one-to-one follow-up with managers.

The new guidelines explicitly set out the company's expectations. They require that workers have access and control over passports and similar documentation at all times, in accordance with local law and regulations. In practice, this means that suppliers can provide a "lock box" to workers for secure storage of their personal identification, for example if workers request storage facilities for their valuables; or it can involve the election of a worker representative to keep migrant workers' passports in a secure location. Whatever the solution, the focus of the guidelines is to ensure that workers' freedom of movement is not impeded in any way.

After disseminating the new guidelines across the region, the company held a one-day seminar for all suppliers in the countries concerned. The seminar offered business partners the opportunity to discuss the new policies, raise questions about them and identify the necessary next steps in implementing operational changes. The consultative process and the clarity of the new guidelines led to agreement amongst suppliers and their subsequent adoption and implementation of the recommendations. Since implementing the policy in mid-2009, no instances of passport retention have been reported or detected by ongoing audits. The guidelines are now integrated into the Company's regular supplier auditing programme and the passport retention issue features regularly in supplier communications, awareness raising and forums. Building on this success, the company will roll out similar guidelines to address worker contract and recruitment practices.

Collective engagement

As part of its overall approach to these issues, the company is also a leading member of a network established by the European Brands Association (AIM) and the US Food, Beverage and Consumer Products Association (GMA). This network is called AIM-PROGRESS, and its mandate focuses on a key compliance challenge faced by many companies operating in different sectors and industries:

- The audit fatigue felt by suppliers that are required to meet the diverse social and environmental standards of different buyers; and
- The related inefficiencies and unnecessary costs faced by both brands and suppliers, resulting from the duplication and overlapping of effort.

AIM-PROGRESS brings together over 40 of the world's largest consumer products companies. It promotes responsible sourcing practices and sustainable production systems with a key focus on developing and promoting



common audit and assessment methods to evaluate CSR performance in supply chains. A vital element of this work is joint training and capacity building for suppliers, and awareness raising on compliance risks faced by participating brands. The latter include forced labour and the risks faced by migrant and foreign contract workers, for example passport retention and the impediments to freedom of movement. To address these risks, the company works through AIM-PROGRESS to promote policy dialogue and industry-wide responses. A key element of this work is support for common audit procedures capable of identifying and addressing potential cases of abuse based on evolving good practice.

Initial Lessons from the Issue

- A collaborative approach that engages suppliers directly in the change process can greatly facilitate such change and improvements in the supply chain.
- Long-term business relationships and ongoing, regular contact between buyers and suppliers can have a positive impact on implementing compliance-related changes in the workplace.
- A company's sphere of influence may extend not only to its immediate suppliers, but to sub-contractors and even third party business partners that provide labour or other employment services.
- Although within the CSR community social auditing has its critics, the process – when performed well – can play an essential role in bringing to light certain risks of abuse within the supply chain.
- Leading by example and pioneering change and improvements at directly owned and operated facilities can enhance the credibility and legitimacy of those requesting the improvements.
- Working together with other brands to address common issues and concerns not only reduces inefficiencies and avoids the costly duplication of effort, it promotes better compliance across supply chains and can lead to more widespread implementation of preventive and corrective action against forced labour.

- 1 **Introduction & Overview**
- 2 **Employers' Frequently Asked Questions**
- 3 **Guiding Principles to Combat Forced Labour**
- 4 **A Checklist & Guidance for Assessing Compliance**
- 5 **A Guide for Taking Action**
- 6 **Tips for Taking Action**
- 7 **Case Studies**

Special Action Programme to Combat Forced Labour

Fundamental Principles and Rights at Work Branch

International Labour Office
Route des Morillons 4
CH-1211 Geneva 22
forcedlabour@ilo.org
www.ilo.org/forcedlabour

ISBN 9789221297994



9 789221 297994

- 1 Introduction & Overview**
- 2 Employers' Frequently Asked Questions**
- 3 Guiding Principles to Combat Forced Labour**
- 4 A Checklist & Guidance for Assessing Compliance**
- 5 A Guide for Taking Action**
- 6 Tips for Taking Action**
- 7 Case Studies**

Special Action Programme to Combat Forced Labour

Fundamental Principles and Rights at Work Branch

International Labour Office
Route des Morillons 4
CH-1211 Geneva 22
forcedlabour@ilo.org
www.ilo.org/forcedlabour

ISBN 9789221297994



9 789221 297994