



International
Labour
Office

Combating Forced Labour

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Introduction & Overview

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

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

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Foreword

Forced labour is universally condemned and banned. Many of us might think that the issue no longer exists and that it has been completely eliminated. Unfortunately, this is not absolutely true and there is evidence that situations of forced labour take different forms in some countries around the world.

The issue of forced labour is the subject of widely-ratified international instruments and, within the private sector, many codes, agreements and initiatives refer to the prohibition of forced labour. The elimination of all forms of forced or compulsory labour is notably one of the fundamental principles enshrined in the ILO 1998 Declaration on Fundamental Principles and Rights at Work.

Even though the issue of forced labour is addressed in many international instruments, there is little understanding of it; sometimes, it is even ignored. For the business community, forced labour might not have been a priority in the past, but today there is growing interest to avoid the risk of being linked to it, especially through supply chain activities. Nowadays, growing globalisation processes have opened up economies, with supply chains increasingly growing. On the one hand, business has strengthened and deepened its supply chain management. On the other hand, the general public is more aware of international developments and is becoming aware of forced labour situations through the activities of non-governmental organisations, lobby groups, the media and others, where forced labour situations have been brought into greater focus by some recent well-publicised examples.

This Handbook for Employers and Business provides excellent practical tools and guidance to enable business and its organisations to identify and prevent situations of forced labour. The International Organisation of Employers commends the efforts of the ILO Special Action Programme on Forced Labour on its first initiative to develop a set of practical tools specifically for the private sector. The IOE has been closely involved in this initiative and we are certain that this Handbook will be of great assistance in helping employer organisations and their members understand the issue of forced labour, in taking the necessary measures to avoid being involved in those situations and in contributing to the total elimination of forced and compulsory labour.

Antonio Peñalosa
Secretary-General
International Organisation of Employers

Preface

This handbook aims to meet the growing need of employers' organisations and individual companies worldwide for guidance as to what forced labour is, how it can affect business operations, and what business actors can do to tackle the problems.

Forced labour is becoming a significant risk for employers, not only for small enterprises on the margins of the formal economy in developing countries, but also for multinational enterprises with complex supply chains and outsourcing operations. The ILO estimates that 80 per cent of all forced labour abuse takes place in the private economy. Though much of this is in the informal economy, several major companies have recently had to deal with forced labour allegations.

While many individual companies now have provisions against forced labour in their codes of conduct, and auditing firms are increasingly offering their services on the subject, there can be difficult debates as to what forced labour actually is. It can take subtle forms, and can be difficult to understand and detect without clear guidance based on the contents of the ILO's Conventions on forced labour and the deliberations of its supervisory bodies.

This first version of a handbook aims to fill such a gap. It has been prepared in close cooperation with the International Organisation of Employers, and draws on consultations with employers and business actors in different regions. In all of these meetings the demand was clearly expressed for such guidance, together with examples of good business practice and advice on remediation. This first version contains only limited good practice examples, but readers are actively encouraged to share more so that future versions can be enriched.

The handbook was prepared by Philip Hunter of the SAP-FL programme, in the context of an Expert Group Initiative on supply chain management of the UN Global Initiative to Fight Human Trafficking (UN.GIFT). It has involved cooperation with several ILO departments, in particular those concerned with international labour standards, employers' activities, multinational enterprises, social dialogue and better work, and child labour. Our thanks are extended to the many external reviewers from employers' organisations, business and civil society who took the time to

review the initial draft, providing invaluable feedback and ensuring that these guidance tools are relevant to the business community. Special appreciation is extended to Mr. David Arkless, Senior Vice President for Global Affairs, and Ms. Branka Minic of Manpower Inc. for invaluable help in facilitating the external review. Particular thanks are also due to Mr. Brent Wilton and Ms. Barbara Leon of the IOE, who commented extensively on earlier drafts.

Roger Plant

Head, Special Action Programme to Combat Forced Labour



I Introduction

Forced labour and the forced labour outcomes of human trafficking 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 forced labour, and take remedial action where necessary, within their sphere of influence.

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 rid the world of forced labour by 2015.

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:** Almost all ILO member States have ratified Conventions 29 and 105 on forced or compulsory labour and States that have ratified the "Palermo Protocol" against human trafficking are required to make this practice a crime. This means that forced labour and trafficking in persons 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.
- **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 technical 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 encourage a broad partnership approach to the fight against forced labour and trafficking through the active engagement of business actors in global action;
- 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 and human trafficking, 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 specific 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 the assessment.
- **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 and benefits that companies can take to address forced labour and trafficking.
- **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, and 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 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, 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 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:

¹ The 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."

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 quite 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. The recruitment and movement of a child for exploitation by a third party is considered "trafficking in persons" even if it does not involve the illicit means identified in the definition.

For ILO, it is important to clarify that not all forced labour is the result of human trafficking and that not all trafficking-related activities necessarily result in forced labour.

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 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.

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 and 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.

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.

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.



II Forced labour and the global economy

Facts and figures

According to ILO data, at least 12.3 million people are victims of forced labour worldwide. Of these, 9.8 million are exploited by private agents, including more than 2.4 million in forced labour as a result of human trafficking. Women and children are particularly vulnerable to abuse, but men are likewise affected, particularly in sectors such as construction and mining.

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. Table 1 below shows the regional distribution of forced labour and reveals that it is a truly global phenomenon.

Table 1:

Regional distribution of forced labour and trafficked forced labourers

	Total Forced Labour	Total Trafficked
Asia and Pacific	9 490 000	1 360 000
Latin America and Caribbean	1 320 000	250 000
Sub-Saharan Africa	660 000	130 000
Industrialised countries	360 000	270 000
Middle East and North Africa	260 000	230 000
Transition countries	210 000	200 000
World	12 300 000	2 450 000 *

* Note: Figures do not add up to total shown because of rounding.

Of the over 2.4 million men, women and children that are victims of trafficking at any point in time, at least one third of these are trafficked for economic purposes other than sexual exploitation. Estimates of the total illicit profits generated by trafficked forced labour are about US\$32 billion. Half of this profit is made in industrialised countries and close to one-third in Asia. Globally, this represents an average profit of approximately US\$13,000 per year for each forced labourer, or US\$1,100 per month.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.

Forced labour outcomes of human trafficking: 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.

⁴ These figures are taken from: ILO, *A global alliance against forced labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work*, Geneva, 2005. For a discussion of the methodology used to generate the figures, see: Patrick Belser et.al, *ILO Minimum Estimate of Forced Labour in the World*, Geneva, 2005.

⁵ Debt 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”.

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 is found remains difficult to establish. However, ILO estimates that, globally, only 20% of all forced labour is exacted by the State or armed forces. This means that the majority of forced labour is exacted by private agents. Of this majority, 11% is exacted for forced commercial sexual exploitation, while 64% is exacted for the purpose of economic exploitation. The form of forced labour in the remaining 5% of cases cannot be clearly identified.⁶

The following presents a non-exhaustive list of economic sectors in which cases of forced labour and human trafficking have been identified as a significant problem in many countries:

- Agriculture and horticulture;
- Construction;
- Garments and textiles under sweatshop conditions;
- Hospitality and catering;
- Mining and logging;
- Food processing and packaging;
- Transportation;
- Domestic service and other care and cleaning work; and
- Sex industry and prostitution.

⁶ See: ILO, *A global alliance against forced labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work*, Geneva, 2005.

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, information technology and contract cleaning, both in private and public sector employment.

Vulnerable workers

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 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.

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)

Forced Labour and trafficking of 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)

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

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

ILO reports and surveys

- 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.
- ILO: *Forced labour and human trafficking: Handbook for labour inspectors*, Geneva, 2008.

IOE policy statements

- IOE, *The informal economy: An employer's approach*, Geneva, 2006.
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- IOE, *Corporate social responsibility: An IOE approach*, Geneva, 2003.
- IOE, *Codes of conduct: Position paper of the IOE*, Geneva, 1999.

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 2008*.
<http://www.state.gov/g/tip/rls/tiprpt/2008/>

Websites

- www.ilo.org/forcedlabour
- www.ioe-emp.org
- www.unglobalcompact.org
- www.ungift.org
- www.antislavery.org
- www.ciett.org

IV Annex 1: International Legal Instruments

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

Article 1

1. Each Member of the International Labour Organisation 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 Organisation 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 Organisation 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 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 job-seekers.

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.

D – 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 Good Practice Case Studies**

**Special Action Programme to Combat Forced Labour
Programme on the Promotion of the Declaration on Fundamental Principles and Rights at Work**

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