



International
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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**

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Guiding Principles to Combat Forced Labour

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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.

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